

CV 14 -

4513

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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| DEAN NICOSIA, on behalf of himself and all<br>others similarly situated,<br><br>Plaintiff,<br><br>- against -<br><br>AMAZON.COM, INC.<br><br>Defendant. | Case No.<br><br>TOWLES, J.<br><br>JUL 28 PM 4:17<br>U.S. DISTRICT COURT<br>EASTERN DISTRICT OF NEW YORK<br>FILED |
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**CLASS ACTION COMPLAINT**

1. Plaintiff Dean Nicosia ("Plaintiff"), by and through his counsel of record, on behalf of himself and all others similarly situated, alleges the following, upon information and belief, against Defendant Amazon.com, Inc. ("Defendant" or "Amazon"), as follows:

**I. NATURE OF THE ACTION**

2. Plaintiff brings this consumer protection class action pursuant to FED. R. CIV. P. 23(a), (b)(2) and (b)(3) on behalf of himself and a class of persons defined in Paragraph 64 below (the "Class") who purchased weight loss supplements from Amazon containing the Schedule IV controlled substance, sibutramine ("Sibutramine Weight Loss Products"). Products containing sibutramine have never been permitted for sale without a prescription from a licensed physician. On October 8, 2010, the lone FDA-approved weight loss product containing sibutramine was withdrawn from the United States market because it was associated with a serious risk of cardiovascular events and strokes.

3. Nonetheless, Amazon has repeatedly sold weight loss supplements containing sibutramine. It has done so despite knowing that "[c]ustomers trust that they can always buy with confidence on Amazon.com." Amazon concedes that, "we know that our customers trust

that they are buying safe and legal products when they shop on Amazon.com.” Yet, Amazon regularly sells weight loss products containing sibutramine. When it is caught doing so, Amazon does nothing to notify its customers that they must immediately dispose of any unused products, warn its customers of the dangers of continuing to ingest these products, inform its customers about sibutramine’s serious health risks, or refund the purchase price customers paid for the products Amazon is prohibited by law from selling.

4. Amazon failed and continues to fail to take adequate measures to prevent the sale of weight loss products containing sibutramine, even violating its own policies. Although Amazon represents that “we take product safety and these restrictions [on the sale of controlled substances] very seriously,” in truth, Amazon does not, instead ignoring its obligations so it may profit from the illegal sale of products containing a Schedule IV controlled substance without a prescription.

5. Since December 2008, the Food and Drug Administration (“FDA”) has found over 155 weight loss products sold in the United States that secretly contain sibutramine. During that same time period – and as recently as July, 2014 – Amazon has illegally marketed and sold at least 47 of those same weight loss products containing undisclosed sibutramine.

6. In addition to the Class, Plaintiff also brings this action pursuant to FED. R. CIV. P. 23(a) and 23(b)(2) on behalf of a separate class of persons, defined in Paragraph 63 below (the “CPSA Class”) who seek only an injunction and who reside with children under 5 years of age, who should be protected against sales by Defendant of weight loss products containing the undisclosed sibutramine.

7. Plaintiff twice unknowingly purchased weight loss supplements from Amazon

containing sibutramine. In November 2013, the FDA announced that the product sold to him by Amazon, *1 Day Diet (One Day Diet) Best Slimming Capsule 60 Pills* ("*1 Day Diet*"), contained sibutramine. Amazon did not tell him *1 Day Diet* contained sibutramine or warn him of the dangers associated with ingesting sibutramine. Amazon also never refunded the purchase prices he paid for the *1 Day Diet* product he never should have been sold. Amazon marketed, sold, dispensed and distributed *1 Day Diet* to Plaintiff when it was prohibited from doing so. It also did so without a prescription from a licensed physician and while not being a licensed and registered pharmacy. Amazon regularly and continually sold and continues to sell products containing sibutramine to consumers. Plaintiff is the member of the Class and CPSA Class.

8. By marketing, selling, dispensing and distributing Sibutramine Weight Loss Products to Plaintiff and the Class, and by retaining the purchase prices and associated charges paid by Plaintiff and the Class to Defendant, Amazon's acts and practices, statements and omissions were unfair, deceptive and misleading and resulted in the unjust enrichment of Defendant. Moreover, by selling weight loss products containing sibutramine, Amazon impliedly warranted that those products were fit for their ordinary purpose and did not contain any scheduled controlled substances or prescription drugs. Those implied warranties were false, deceptive and misleading.

9. Plaintiff alleges on behalf of himself and the Class claims under the Washington Consumer Protection Act (and alternatively the consumer protection laws of other states), the Washington implied warranty laws codified in the Washington Uniform Commercial Code (and alternatively the implied warranty laws codified in other states) and for common law principles prohibiting unjust enrichment. Plaintiff also alleges on behalf of himself and the CPSA Class a

claim to remedy Defendant's violations of the Consumer Protection Safety Act by reason of its violations of the rules and regulations of the Consumer Products Safety Commission.

10. Plaintiff seeks, among other relief, (1) injunctive relief to prevent Amazon from selling products that contain sibutramine including selling such products in a manner that violates the rules and regulations of the Consumer Products Safety Commission; requiring Amazon to adequately and meaningfully notify and warn those to whom it has sold weight loss products that contain sibutramine; requiring Amazon to obtain reliable proof prior to selling weight loss products that they do not contain sibutramine; requiring Amazon to comply with its stated policies and procedures; and requiring Amazon to fulfill its obligation to reimburse purchasers of the illegally sold products; (2) declaratory relief; (3) restitution and/or disgorgement in the amount Class members paid for products that contain sibutramine, including associated charges such as taxes, shipping and handling; and (4) damages comprising the purchase price(s) paid to Amazon for products that contain sibutramine, including shipping and handling charges.

## **II. JURISDICTION AND VENUE**

11. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §1331 and 15 U.S.C. §2073 because this action arises under the laws of the United States and seeks enforcement of the Consumer Product Safety Act by reason of the rules and regulations of the Consumer Products Safety Commission. This Court has supplemental jurisdiction over the Plaintiff's state law and common law claims pursuant to 28 U.S.C. §1367(a).

12. This Court also has subject matter jurisdiction under 28 U.S.C. §1332(d) and the Class Action Fairness Act ("CAFA") because this is a class action in which the subject matter in

controversy exceeds the sum or value of \$5,000,000.00, there are in excess of 100 class members and members of the Class and CPSA Class are citizens of a state different from that of Defendant.

13. This Court has personal jurisdiction over Defendant. Defendant is authorized to do business in New York, maintains offices and employees in New York and this District, maintains continuous and systemic contacts with New York and this District, does business in New York and this District specifically related to the claims alleged in this Complaint and has sufficient minimum contacts with New York so as to render the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

14. Venue is proper in this District under 28 U.S.C. §1391 and 15 U.S.C. §2073.

### **III. THE PARTIES**

15. Plaintiff is presently a resident of Wilmington, North Carolina, and during the class period(s) was a resident of Massapequa, New York. Plaintiff is a retired police officer and detective, formerly employed by the New York City Police Department and Hempstead Police Department. He is the married father of three children under five years of age who reside in his household. In February 2013, and again in April 2013, Plaintiff purchased *1 Day Diet* from Amazon using his credit card. Amazon charged Plaintiff's credit card \$37.83 for the purchase of *1 Day Diet* shipped on February 2, 2013, comprising the product cost and shipping and handling fees. Amazon charged Plaintiff's credit card \$20.66 for the purchase of *1 Day Diet* on April 27, 2013, comprising the product cost and shipping and handling fees. Unknown to plaintiff, the *1 Day Diet* product he purchased from Amazon contained sibutramine. Like the other Sibutramine Weight Loss Products sold by Amazon, sibutramine was not listed as an

ingredient on Amazon's website or on the packaging for *1 Day Diet*. In November 2013, the FDA revealed that *1 Day Diet* contained sibutramine. Amazon stopped selling *1 Day Diet*, but never notified Plaintiff or his family that it had illegally sold them a supplement containing a dangerous substance, never warned about the risks associated with sibutramine and never refunded his purchase. Amazon marketed, sold, dispensed and distributed *1 Day Diet* to Plaintiff without a prescription from a licensed physician and without being a licensed and registered pharmacy.

16. Defendant is a Delaware corporation with its principal place of business in Seattle, Washington. Amazon is an online retailer that conducts business in this District and the United States via its Internet website, [www.amazon.com](http://www.amazon.com). Through its website, Defendant marketed and sold Sibutramine Weight Loss Products to Plaintiff and members of the Class and the CSPA Class. Upon information and belief, Amazon is neither a physician nor a licensed or registered pharmacy.

#### **IV. BACKGROUND**

17. Sibutramine and "any material, compound, mixture, or preparation which contains any quantity of" sibutramine is a Schedule IV controlled substance, listed among the category of "Stimulants." 21 C.F.R. §1308.14(e).

18. In 2010, the manufacturer of the branded pharmaceutical Meridia®, the only product containing the active ingredient sibutramine approved for sale in the United States, withdrew the product from sales in the United States.

19. The decision to withdraw sibutramine from the United States market was precipitated by a series of FDA studies that demonstrated Sibutramine to cause serious health

hazards. According to a October 8, 2010 press release issued by the FDA, “Meridia’s continued availability is not justified when you compare the very modest weight loss that people achieve on this drug to their risk of heart attack or stroke,” said John Jenkins, M.D., director of the Office of New Drugs in the FDA’s Center for Drug Evaluation and Research (CDER).”

20. The FDA’s October 8, 2010 press release continued:

The FDA requested the market withdrawal after reviewing data from the Sibutramine Cardiovascular Outcomes Trial (SCOUT). SCOUT was initiated as part of a postmarket requirement to look at cardiovascular safety of sibutramine after the European approval of this drug. The trial demonstrated a 16 percent increase in the risk of serious heart events, including non-fatal heart attack, non-fatal stroke, the need to be resuscitated once the heart stopped, and death, in a group of patients given sibutramine compared to another given placebo. There was a small difference in weight loss between the placebo group and the group that received sibutramine.

21. A separate FDA *Drug Safety Communication* issued on October 8, 2010 advised physicians to (1) stop prescribing Meridia (sibutramine); (2) to contact patients to ask them to stop taking the drug; and (3) to inform patients about the risks of taking sibutramine, including “major adverse cardiovascular events” that could occur.

22. Another FDA document dated October 8, 2010 and styled *Questions and Answers: FDA Recommends Against the Continued Use of Meridia (sibutramine)* confirmed that Meridia (sibutramine) would no longer be available for sale in the United States: “Q3. Will the product remain on the market? No, Abbott will ask pharmacies and other retail establishments where Meridia is sold to return the product to the company.”

## V. STATEMENT OF FACTS

23. Defendant markets, sells and distributes a variety of brands of weight loss products. Weight loss supplement manufacturers are notorious for including substances in their products that facilitate weight loss, but are illegal for sale in the United States, dangerous and even life threatening. A substance commonly and illicitly used in weight loss substances is the withdrawn prescription drug and controlled substance sibutramine. Amazon knew or should have known or was reckless in not knowing that the Sibutramine Weight Loss Products it marketed and sold on its website contained undisclosed sibutramine.

24. The sale of sibutramine was never permitted without a prescription. Other countries have joined the United States in withdrawing sibutramine from their markets, including Australia, Canada, China, the European Union, Hong Kong, India, Mexico, New Zealand, the Philippines, Thailand, and the United Kingdom.

### **Amazon Knows it is Unlawful for It to Sell Prescription Drugs or Controlled Substances**

25. Amazon states on its website that it may not sell on [www.amazon.com](http://www.amazon.com), “illegal, unsafe, or other restricted products ... including products available only by prescription, ....”

26. Among the categories of products that Amazon acknowledges on its website that it is prohibited from selling are: (1) “• Controlled substances, including products containing: °Anything listed in Schedules I, II, III, IV or V of the Controlled Substances Act, ....”; (2) “• Products that require a prescription or a medical professional’s supervision or direction for their use,”; and (3) “• Dietary supplements, such as weight loss products, that contain undeclared or prohibited active pharmaceutical ingredients, ....”

27. Among the “Prescription Drugs and Ingredients” that Amazon acknowledges on



its website that it is prohibited from selling are products containing sibutramine. Presently included among a list of products on its website that Defendant knows to contain sibutramine, are *1 Day Diet* and many other Sibutramine Weight Loss Products it has sold.

28. Amazon's admissions and acknowledgments that it may not sell prescription drugs or scheduled controlled substances are based on the laws, rules and regulations pertaining to the sale, packaging and labeling of prescription drugs and scheduled controlled substances.

29. The Food Drug and Cosmetic Act (the "FDCA") and the Controlled Substance Act (the "CSA"), including sections 21 U.S.C. §§ 353, 829 and 841, prohibit the sale of any prescription drug containing a Schedule IV controlled substance without a prescription from a licensed physician. For instance, 21 U.S.C. §829(e) provides that, "[n]o controlled substance that is a prescription drug ... may be delivered, distributed, or dispensed by means of the Internet without a valid prescription." In addition, a prescription drug containing a Schedule IV controlled substance may only be dispensed by a physician directly to a patient or by a licensed pharmacy acting upon a prescription from a licensed physician.

30. The FDCA and CSA further prohibit the sale or distribution of any product containing a scheduled controlled substance unless that product complies with strict warning, labeling and packaging requirements of the CSA and FDCA. *See* 21 U.S.C. §§ 321, 352, 353, 360ee-1 and 825.

31. In addition, pursuant to 21 U.S.C. §352(p), a label or packaging for a prescription drug must not violate the labeling requirements of the Poison Prevention Packaging Act, 15 U.S.C. §§ 1472 and 1473, or applicable federal regulations.

32. Federal rules and regulations contain further prohibitions on selling, dispensing

or distributing prescription drugs or controlled substances without a prescription or by a person or entity other than a licensed physician or pharmacist. *See* 21 C.F.R. §§ 1306.03, 1306.05, 1306.06, 1306.08, 1306.21, 1306.22, 1306.24.

33. Through passage of the Consumer Products Safety Act (the “CPSA”), Congress charged the Consumer Products Safety Commission (the “CPSC”) with promulgating rules and regulations to assure that prescription drugs and controlled substances are only dispensed in containers designed to prevent access by children. *See* 15 U.S.C. §2079; 16 C.F.R. §1700.2.

34. Pursuant to the CPSA, the CPSC has enacted rules and regulations requiring all scheduled controlled substances and prescription drugs to be sold only in child-resistant packaging. 16 C.F.R. §§ 1700.14(a)(4) and (a)(10) provide:

**§1700.14 Substances requiring special packaging.**

(a) *Substances.* The Commission has determined that the degree or nature of the hazard to children in the availability of the following substances, by reason of their packaging, is such that special packaging meeting the requirements of §1700.20(a) is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances, and the special packaging herein required is technically feasible, practicable, and appropriate for these substances:

....

(4) *Controlled drugs.* Any preparation for human use that consists in whole or in part of any substance subject to control under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 *et seq.*) and that is in a dosage form intended for oral administration shall be packaged in accordance with the provisions of §1700.15 (a), (b), and (c).

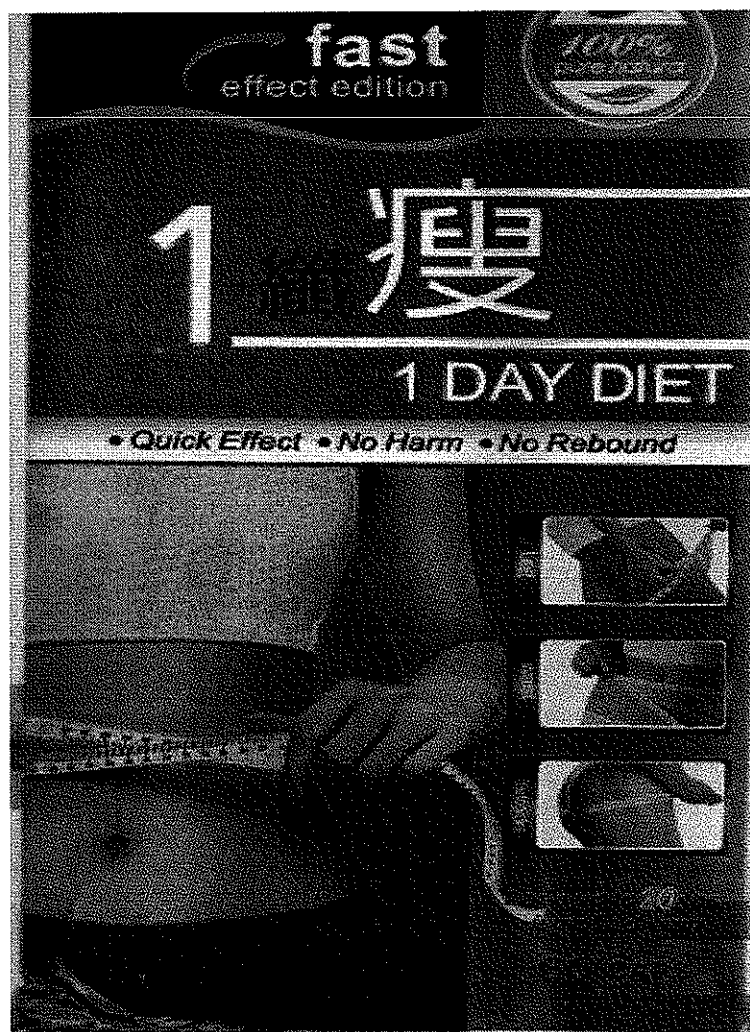
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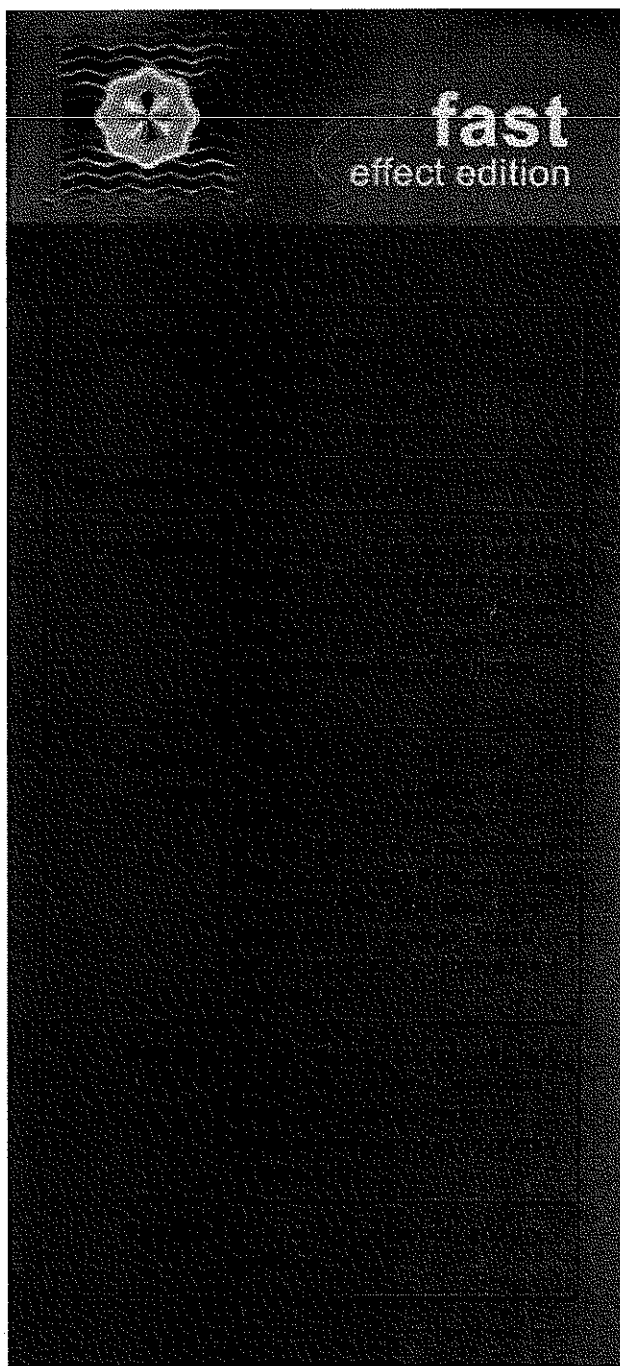
(10) *Prescription drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of §1700.15 (a), (b), and (c), ....

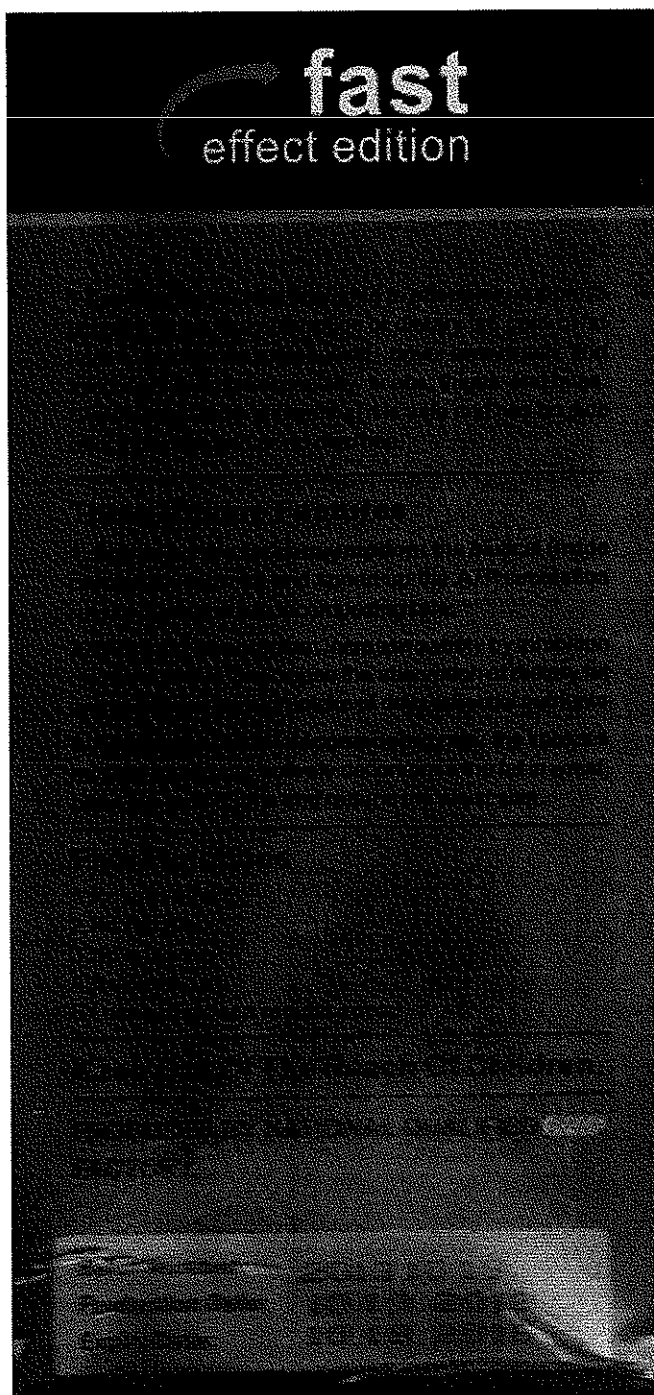
35. The CPSC has set forth the protective packaging requirements for scheduled controlled substances and prescription drugs in 16 C.F.R. §§ 1700.15(a), (b) and (c). These regulations require “special packaging” designed “to protect children from serious personal injury or serious illness” that can occur by ingesting dangerous substances. The CPSC maintains a rigorous testing protocol to ensure the effectiveness of its “special packaging” rules, as set forth in 16 C.F.R. §1700.20.

36. The CPSC’s “special packaging” requirements mean “packaging that is designed or constructed to be significantly difficult for children under 5 years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.” 16 C.F.R. §1700.1(a)(4).

37. The Sibutramine Weight Loss Products sold by Amazon do not comply with the laws, rules and regulations concerning the sale of prescription drugs and scheduled controlled substances. For example, the packaging and labeling for *1 Day Diet* appears as follows:













38. *1 Day Diet* sold by Amazon contained the following product insert, which also did not comply with the laws, rules and regulations concerning the packaging, labeling and warnings required for the sale of prescription drugs and scheduled controlled substances:



**fast**  
effect edition



快速減肥

1 Day Diet is specially designed to effectively suppress appetite, block the absorption of dietary fat, control fat intake, accelerate metabolism, drive away trash and toxin, and burn fat especially in abs, thighs and buns. Clinical tests have shown that it is safe and has no side effect, no rebound or no diarrhea.

**Three Unique Features:**

- Speed up the fat consumption:** the biotical inside can quickly burn fat and speed up the ATP circulation rate to boost the fat decomposing rate.
- Block fat absorption:** increase satiety by inhibition reuptake of 5-HT, decrease the absorption of dietary fat and guarantee enough intake of daily essential nutrients.
- Accelerate the fat decomposing rate:** the lipolysis enzyme inside can actively decompose the fat in waist, belly, hip, and thighs and reduce the waist size.

**Five Functions**

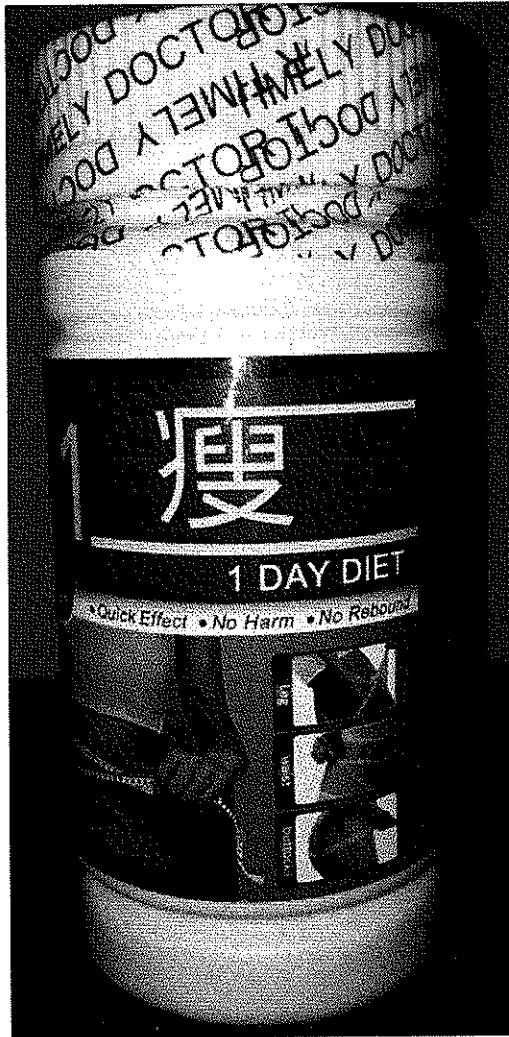
- No side effect
- No rebound
- No anorexia
- No diarrhea
- Loss weight at a regular speed

|                         |   |
|-------------------------|---|
| <b>Applicable For</b>   | 1. People with simple obesity.<br>2. People with osiparum obesity<br>3. People can not get slim by dieting and exercise   |
| <b>Specification</b>    | 500mg x 80capsules  |
| <b>Ingredients</b>      | Africa Natto, Ganoderma Lucidum, Ginseng, Fructus Mume, Euryale Ferox seeds, Poria Cocos, Semen Pruni, Chinese Yam, Cassia Seed and wheat germ oil other herbal essence   |
| <b>Suggested Dosage</b> | Begin taking in small dosage, that is once per day, 1 capsule each time for the first three days, then you can take 2-4 capsules each time, once per day. If you don't feel uncomfortable, otherwise, keep taking in small dosage. Take it before breakfast to achieve the best results |
| <b>Warning</b>          | Not applicable for people with high blood pressure, atherosclerosis, heart diseases or any chronic illnesses and women in pregnancy or lactation  |
| <b>Storage</b>          | Store in a cool, steady and dry conditions  |

**PRODUCED BY NATIONAL QUALIFIED GMP FACTORY.**  
**Keep Out Of The Reach Of Children.**



39. The *1 Day Diet* product sold by Amazon contained the following product container and cap, which also did not comply with the laws, rules and regulations concerning the packaging, labeling and warnings required for the sale of prescription drugs and scheduled controlled substances:



**Amazon has Repeatedly Sold Sibutramine Weight Loss Products**

40. An FDA publication titled *Tainted Weight Loss Products*, last visited July 27, 2014, provides over 100 examples since 2009 where the FDA had determined that over-the-counter weight loss products contained prohibited and undisclosed drug ingredients. That FDA publication, attached as Exhibit A to this Complaint, states:

FDA has identified an emerging trend where over-the-counter products, frequently represented as dietary supplements, contain hidden active ingredients that could be harmful. Consumers may unknowingly take products laced with varying quantities of approved prescription drug ingredients, controlled substances, and untested and unstudied pharmaceutically active ingredients. These deceptive products can harm you! Hidden ingredients are increasingly becoming a problem in products promoted for weight loss.

41. The FDA's *Tainted Weight Loss Products* publication contains a link to a FDA-prepared video, entitled *Being Fooled by Empty Diet Promises*. Source: <http://www.fda.gov/drugs/resourcesforyou/consumers/buyingusingmedicinesafely/medicationhealthfraud/ucm234592.htm>, last visited July 27, 2014. That FDA video highlights the unlawful inclusion of sibutramine in weight loss products sold to consumers without a prescription.

42. Prior to releasing its *Tainted Weight Loss Products* publication, the FDA issued a Release on December 22, 2008, and reissued on January 8, 2009, identifying many other weight loss products as containing illegal controlled substances, including sibutramine. That Release, attached as Exhibit B to this Complaint, is titled, *FDA Expands Warning to Consumers About Tainted Weight Loss Pills increases from 28 to 69 products; Agency seeking recalls*. In that Release, the FDA stated:

An FDA analysis found that the undeclared active pharmaceutical ingredients in some of these products include sibutramine (a controlled substance), rimonabant (a drug not approved for marketing in the United States), phenytoin (an anti-seizure medication), phenolphthalein (a solution used in chemical experiments

and a suspected cancer causing agent) and bumetanide (a diuretic). Some of the amounts of active pharmaceutical ingredients far exceeded the FDA-recommended levels, putting consumers' health at risk.

These weight loss products, some of which are marketed as "dietary supplements," are promoted and sold on various Web sites and in some retail stores. Some of the products claim to be "natural" or to contain only "herbal" ingredients, but actually contain potentially harmful ingredients not listed on the product labels or in promotional advertisements. These products have not been approved by the FDA, are illegal and may be potentially harmful to unsuspecting consumers.

... The health risks posed by these products can be serious; for example, sibutramine, which was found in many of the products, can cause high blood pressure, seizures, tachycardia (rapid heart beat), palpitations, heart attack or stroke. This drug can also interact with other medications that patients may be taking and increase their risk of adverse drug events. The safety of sibutramine has also not been established in pregnant and lactating women, or in children younger than 16 years of age.

43. The FDA has identified Internet retailers who sell weight loss products as a source of deceptive and misleading conduct, often selling products with undisclosed drugs.

44. A January 26, 2011 FDA Consumer Update warned against Internet retailers that sell drugs that secretly containing sibutramine. About sibutramine, the FDA stated:

Sibutramine is the active ingredient of a different medicine called Meridia, a prescription drug also approved by FDA to help obese people lose weight and maintain weight loss. In addition, sibutramine is classified as a controlled substance by the Drug Enforcement Administration because of its potential for abuse and misuse. Using medicine that contains an active ingredient that wasn't prescribed by your licensed health care provider may be harmful.

45. On December 15, 2010, the FDA issued a Consumer Health Information release styled *Tainted Products Marketed as Dietary Supplements*. As of that date, the FDA had found over 80 products marketed for weight loss that were deceptively labeled or contained harmful ingredients.

46. Amazon has sold – as recently as July 2014 - at least 47 of the weight loss

products identified by the FDA as containing undisclosed sibutramine.

47. Defendant's description of the "Appetite Suppressants from Amazon.com" does not disclose that many Sibutramine Weight Loss Products it has sold contain sibutramine:

#### **Appetite Suppressants from Amazon.com**

From natural and organic pills to low-carb fiber sprinkles and gluten-free supplement bars, appetite suppressants from Amazon.com ranges in format, dietary specialties, quantities, sizes, and more. Available in capsules, tablets, liquids, powders, drops, creams, chewables, soft-gels, and other formats, we feature well-known and popular brands like Earths Design, NatureWise, Epic Nutrition, and Sensa. Whether you are looking to take them sprinkled into your food or as a supplement beforehand, in the mornings, or at night—we pride ourselves on having a wide selection for you to choose from.

Whether you're searching for natural Garcinia Cambogia extract supplements or raspberry ketone drops, we carry a variety of appetite suppressants for a variety of dietary needs. Easily find the supplements you need with our handy shopping filters that allow you to sort by format, dietary specialty, shipping option, feature keywords, brands, and more to refine your search. You can also filter by price and discount for budget-friendly options, or by bestselling and top-rated products for customer-recommended choices. By using our Subscribe & Save options to order your preferred appetite suppressants and other health products, you can save money while having regularly scheduled deliveries straight to your home.

Sourced from both natural and chemical ingredients, our selection of appetite suppressants offers you many choices when you're shopping for all kinds of supplements and weight loss products, and you'll find the supplements you want in the formulas and doses that that you're looking for. And with several affordable and convenient shipping options to choose from, it has never been easier to receive your order of appetite suppressants with the click of a mouse.

You can find all the nutritional supplements you're looking for, including appetite suppressants, from Amazon.com, your one-stop health products shop.

48. Given the frequency of its sales of Sibutramine Weight Loss Products, the many notifications by the FDA since 2008, the frequent removal by Amazon of Sibutramine Weight Loss Products offered for sale on www.amazon.com and its own statements that many Sibutramine Weight Loss Products it has sold contain sibutramine, Amazon knew or should have known or was reckless in not knowing that Sibutramine Weight Loss Products it marketed and sold on its website contained undisclosed sibutramine.

#### **Amazon Sold Plaintiff 1 Day Diet Containing Sibutramine**

49. Among the weight loss products sold by Amazon containing undisclosed sibutramine was *1 Day Diet*.

50. According to Defendant's marketing of *1 Day Diet* on its website,

www.amazon.com, as of September 2013 *1 Day Diet* ranked 21<sup>st</sup> in sales of “Appetite Control & Suppressants” products among the “Weight Loss” products sold by Amazon.

51. Amazon marketed and sold *1 Day Diet* on www.amazon.com without a prescription by a licensed physician.

52. The *1 Day Diet* product marketed for sale and sold by Amazon did not disclose that it contained a Schedule IV controlled substance. This was a material omission.

53. The *1 Day Diet* product marketed for sale and sold by Amazon did not disclose that it contained sibutramine. This was a material omission.

54. On January 30, 2013, Plaintiff purchased *1 Day Diet* using his credit card from Defendant on www.amazon.com, which product was shipped by Amazon on February 1, 2013. Neither the purchase price nor the shipping and handling fees collected by Amazon and charged to Plaintiff's credit card for the January 30, 2013 purchase of *1 Day Diet* has been refunded to Plaintiff or his credit card.

55. On April 19, 2013, Plaintiff again purchased *1 Day Diet* using his credit card from Defendant on www.amazon.com, which product was shipped by Amazon on April 27, 2013. Neither the purchase price nor the shipping and handling fees collected by Amazon and charged to Plaintiff's credit card for the April 19, 2013 purchase of *1 Day Diet* has been refunded to Plaintiff or his credit card.

56. Because of the labeling violations, Plaintiff is unable to determine who manufactured *1 Day Diet* and many of the Sibutramine Weight Loss Products. For example, based upon Amazon's marketing of *1 Day Diet* and statements made on its website about the Product, the manufacturer of *1 Day Diet* is not located within the United States, is likely located

in Thailand, and is not subject to service of process or jurisdiction. It is highly probable that Plaintiff would be unable to enforce a judgment against the foreign manufacturer(s).

57. Amazon marketed and sold *1 Day Diet* through at least November 2013.

### **The FDA Reveals that *1 Day Diet* Contains Sibutramine**

58. On November 21, 2013, the FDA announced that it had tested the *1 Day Diet* product. Its analysis revealed that *1 Day Diet* contained sibutramine. See Exhibit C hereto.

59. The FDA's announcement was published in a Public Notification, which stated:

#### **Public Notification: "1 Day Diet" Contains Hidden Drug Ingredient**

[11-21-2013] The Food and Drug Administration (FDA) is advising consumers not to purchase or use "1 Day Diet," a product promoted and sold for weight loss on various websites and possibly in some retail stores.

FDA laboratory analysis confirmed that "1 Day Diet" contains sibutramine. Sibutramine is a controlled substance that was removed from the market in October 2010 for safety reasons. The product poses a threat to consumers because sibutramine is known to substantially increase blood pressure and/or pulse rate in some patients and may present a significant risk for patients with a history of coronary artery disease, congestive heart failure, arrhythmias, or stroke. This product may also interact, in life threatening ways, with other medications a consumer may be taking.

Consumers should stop using this product immediately and throw it away. Consumers who have experienced any negative side effects should consult a health care professional as soon as possible.

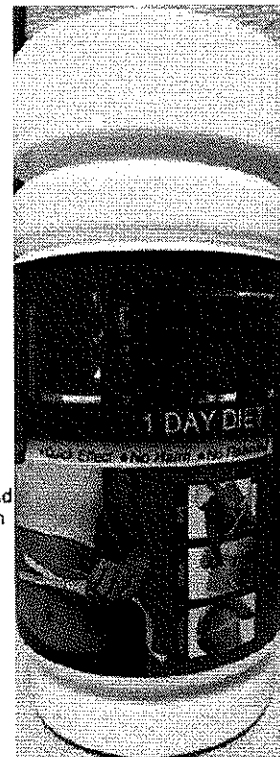
Healthcare professionals and patients are encouraged to report adverse events or side effects related to the use of these products to the FDA's MedWatch Safety Information and Adverse Event Reporting Program:

- Complete and submit the report Online: [www.fda.gov/MedWatch/report.htm](http://www.fda.gov/MedWatch/report.htm)<sup>1</sup>
- Download form<sup>2</sup> or call 1-800-332-1088 to request a reporting form, then complete and return to the address on the pre-addressed form, or submit by fax to 1-800-FDA-0178

Note: This notification is to inform the public of a growing trend of dietary supplements or conventional foods with hidden drugs and chemicals. These products are typically promoted for sexual enhancement, weight loss, and body building, and are often represented as being "all natural." FDA is unable to test and identify all products marketed as dietary supplements on the market that have potentially harmful hidden ingredients. Consumers should exercise caution before purchasing any product in the above categories.

Please refer to the links below for more information:

- Tainted Weight Loss Product<sup>3</sup>
- Subscribe to the RSS feed<sup>4</sup>
- Tainted Supplement Consumer Article<sup>5</sup>



60. After November 21, 2013, Plaintiff learned that Defendant had unlawfully, unfairly, deceptively and in breach of its implied warranties sold him *1 Day Diet* containing a scheduled controlled substance, without a prescription, without being dispensed by a licensed or registered pharmacy, and without complying with the federal laws, rules and regulations



concerning the sale of prescription drugs and scheduled controlled substances.

61. Even though Amazon possesses email and mailing addresses for all customers who purchased a Sibutramine Weight Loss Products from its website, upon information and belief, Amazon does not notify its customers when the FDA discovers weight loss products sold by Amazon contain sibutramine, or warn them. Like the other members of the Class and CPSA Class, when Amazon ceased selling *1 Day Diet*, it did not attempt to contact Plaintiff to alert him and his family of the FDA's detection of sibutramine in *1 Day Diet*, nor to offer him a refund, nor warn them of the serious health hazards associated with sibutramine and *1 Day Diet*, nor refer them to the FDA or FDA's website to learn more about the risks associated with sibutramine and *1 Day Diet*. These intentional and willful acts, practices and omissions should result in an award to Plaintiff and the Class of punitive damages, in addition to the other relief and remedies, sought in Counts Third and Fourth.

62. Even though Amazon possesses credit card or debit card information for all customers who purchased Sibutramine Weight Loss Products from its website, upon information and belief, Amazon does not provide refunds to Class members who purchased Sibutramine Weight Loss Products from it. This was true, even though it provides an "A-to-z Guarantee" guaranteeing "the condition of the product you buy" on [www.amazon.com](http://www.amazon.com).

## **VI. CLASS ACTION ALLEGATIONS**

63. For Count I seeking injunctive relief as its sole remedy, Plaintiff brings this action pursuant to FED. R. CIV. P. 23(a) and 23(b)(2) on behalf of himself a class (the "CPSA Class") of CPSA Class members who resided in a household with one or more children under the age of 5 years old on the date of purchase from Defendant any product containing

sibutramine, including, but not limited to, those products identified in Exhibits A and B hereto that the FDA has determined contained undisclosed sibutramine, including: Lingzhi Cleansed Slim Tea, Mix Fruit Slimming, Lipo 8 Burn Slim, Sliming Diet, Asset Bold, Asset Bee Pollen, Slim Trim U, Lite Fit USA, Vitaccino Coffee, Dream Body Slimming Capsule, Magic Slim, Asset Extreme Plus, 7 Days Herbal Slim, Slimming Diet Berry Plus, SlimExtra Herbal Capsules, Beauty 5 Days Slimming Coffee, Jimpness Beauty Fat Loss Capsules, Goodliness Fat-Reducing Capsules, Dr. Mao Slimming Capsules, Instant Slim, Meizi Evolution, Fruit & Plant Slimming, Paiyouji Plus, Beautiful Slim Body, Zi Xiu Bee Pollen Slimming Capsules, Japan Rapid Weight Loss Diet Pills Yellow, Japan Weight Loss Blue, Dream Body Slimming Capsule, Leisure 18 Slimming Coffee, Lishou, Magic Slim Tea, Magic Slim Weight Loss Capsule, P57 Hoodia, Tengda, Botanical Slimming, Health Slimming Coffee, Pai You Gou Slim Tea, Slim Xtreme Herbal Slimming Capsule, Fruta Planta, Venom Hyperdrive 3.0, Imelda Perfect Slim, Slim Express 360, 2 Day Diet, Lida Daidaihua, 3x Slimming Power, Slim Express 4 in 1 and Meizitang.

64. For Counts II through VI, Plaintiff also brings this action pursuant to FED. R. CIV. P. 23(a), 23(b)(2) and 23(b)(3) on behalf of himself and a class (the "Class") of all persons who purchased from Defendant any product containing sibutramine, including, but not limited to, those products identified in Exhibits A and B hereto that the FDA has determined contained undisclosed sibutramine, including: Lingzhi Cleansed Slim Tea, Mix Fruit Slimming, Lipo 8 Burn Slim, Sliming Diet, Asset Bold, Asset Bee Pollen, Slim Trim U, Lite Fit USA, Vitaccino Coffee, Dream Body Slimming Capsule, Magic Slim, Asset Extreme Plus, 7 Days Herbal Slim, Slimming Diet Berry Plus, SlimExtra Herbal Capsules, Beauty 5 Days Slimming Coffee,



Jimppness Beauty Fat Loss Capsules, Goodliness Fat-Reducing Capsules, Dr. Mao Slimming Capsules, Instant Slim, Meizi Evolution, Fruit & Plant Slimming, Paiyouji Plus, Beautiful Slim Body, Zi Xiu Bee Pollen Slimming Capsules, Japan Rapid Weight Loss Diet Pills Yellow, Japan Weight Loss Blue, Dream Body Slimming Capsule, Leisure 18 Slimming Coffee, Lishou, Magic Slim Tea, Magic Slim Weight Loss Capsule, P57 Hoodia, Tengda, Botanical Slimming, Health Slimming Coffee, Pai You Gou Slim Tea, Slim Xtreme Herbal Slimming Capsule, Fruta Planta, Venom Hyperdrive 3.0, Imelda Perfect Slim, Slim Express 360, 2 Day Diet, Lida Daidaihua, 3x Slimming Power, Slim Express 4 in 1 and Meizitang. Excluded from the Class is any person who has received a full refund of their purchase price(s), including shipping and handling, for the Sibutramine Weight Loss Product(s) purchased from Defendant and any claims for personal injuries suffered as a result of ingesting Sibutramine Weight Loss Supplements.

65. Excluded from the Class, and from the CPSA Class, are Defendant and its subsidiaries, officers, directors, employees, partners and co-venturers, federal, state, or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, and any juror assigned to this action.

66. The Sibutramine Weight Loss Products identified by product name in Paragraphs 63 and 64 above and listed below were each marketed and sold by Amazon:

| Product Name              | FDA Public Notification Date |
|---------------------------|------------------------------|
|                           |                              |
| Lingzhi Cleansed Slim Tea | 7/8/14                       |
| Mix Fruit Slimming        | 7/8/14                       |

|                                   |          |
|-----------------------------------|----------|
| Lipo 8 Burn Slim                  | 7/8/14   |
| Sliming Diet                      | 6/17/14  |
| Asset Bold                        | 5/16/14  |
| Asset Bee Pollen                  | 5/12/14  |
| Slim Trim U                       | 5/5/14   |
| Lite Fit USA                      | 4/10/14  |
| Vitaccino Coffee                  | 3/19/14  |
| Dream Body Slimming Capsule       | 1/21/14  |
| Magic Slim                        | 1/21/14  |
| Asset Extreme Plus                | 12/19/13 |
| 7 Days Herbal Slim                | 12/19/13 |
| Slimming Diet Berry Plus          | 12/19/13 |
| SlimExtra Herbal Capsules         | 11/21/13 |
| <i>1 Day Diet</i>                 | 11/21/13 |
| Beauty 5 Days Slimming Coffee     | 11/21/13 |
| Jimnness Beauty Fat Loss Capsules | 11/7/13  |
| Goodliness Fat-Reducing Capsules  | 11/5/13  |
| Dr. Mao Slimming Capsules         | 10/10/13 |
| Instant Slim                      | 9/17/13  |
| Meizi Evolution                   | 6/27/13  |
| Fruit & Plant Slimming            | 6/17/13  |
| Paiyouji Plus                     | 6/17/13  |

|   |          |
|---|----------|
| Beautiful Slim Body                       | 11/8/12  |
| Zi Xiu Tang Bee Pollen Capsules           | 10/24/12 |
| Japan Rapid Weight Loss Diet Pills Yellow | 4/3/12   |
| Japan Weight Loss Blue                    | 2/18/12  |
| Dream Body Slimming Capsule               | 10/18/11 |
| Leisure 18 Slimming Coffee                | 10/18/11 |
| Lishou                                    | 10/18/11 |
| Magic Slim Tea                            | 10/18/11 |
| Magic Slim Weight Reduction Capsule       | 10/18/11 |
| P57 Hoodia                                | 10/18/11 |
| Tengda                                    | 10/18/11 |
| Botanical Slimming                        | 10/18/11 |
| Health Slimming Coffee                    | 10/18/11 |
| Pai You Guo Slim Tea                      | 10/18/11 |
| Slim Xtreme Herbal Slimming Capsule       | 5/10/11  |
| Fruta Planta                              | 10/22/10 |
| Venom Hyperdrive 3.0                      | 1/27/09  |
| Imelda Perfect Slim                       | 12/22/08 |
| Slim Express 360                          | 12/22/08 |
| 2 Day Diet                                | 12/22/08 |
| Lida DaiDaihua                            | 12/22/08 |
| 3x Slimming Power                         | 12/22/08 |

|                     |          |
|---------------------|----------|
| Slim Express 4 in 1 | 12/22/08 |
| Meizitang           | 12/22/08 |

67. The classes contain many thousands of individuals whose identities can be readily ascertained from Defendants' books and records. Plaintiff does not know the exact size or identities of the proposed classes, since such information is in the exclusive control of Defendant.

68. Common question of law and fact raised in this action include the following:

- (a) Whether Defendant marketed Sibutramine Weight Loss Products for sale without a prescription from a licensed physician;
- (b) Whether Defendant sold Sibutramine Weight Loss Products to Plaintiff and the classes without a prescription from a licensed physician;
- (c) Whether Defendant marketed or sold Sibutramine Weight Loss Products to Plaintiff and the classes without being a licensed pharmacy;
- (d) Whether the Sibutramine Weight Loss Products sold by Defendant contained the Schedule IV controlled substance sibutramine;
- (e) Whether the Sibutramine Weight Loss Products sold by Defendant complied with the labeling, warning, child-resistant caps and packaging rules for prescription pharmaceuticals and scheduled controlled substances;
- (f) Whether Defendant's marketing or sale of Sibutramine Weight Loss Products violated the CPSA by reason of violations of CPSC rules and regulations;
- (g) Whether Defendant's marketing or sale of Sibutramine Weight Loss Products

was unfair or deceptive;

(h) Whether Defendant's marketing or sale of Sibutramine Weight Loss Products violated the Washington Consumer Protection Act, or the consumer protection laws of other states;

(i) Whether Defendant made implied warranties concerning the sale, use or merchantability of Sibutramine Weight Loss Products;

(j) Whether Defendant's marketing or sale of Sibutramine Weight Loss Products violated WASH. REV. CODE §§ 62A.2-314 AND 62A.2-315, or the implied warranty laws of other states;

(k) Whether Defendant was unjustly enriched by its sale and retention of the proceeds from the sale of Sibutramine Weight Loss Products to Plaintiff and the Class;

(l) Whether Plaintiff and the Class are entitled to damages, restitution, disgorgement, a constructive trust, declaratory relief and/or injunctive relief as a result of Defendant's conduct, and the proper measure of damages and other relief; and

(m) Whether Plaintiff and the classes are entitled to injunctive relief as a result of Defendant's sale of Sibutramine Weight Loss Products and continuing sales of products containing sibutramine.

69. Plaintiff will fairly and adequately protect the interests of the classes. Plaintiff has retained able counsel with extensive experience in deceptive consumer practices as well as in class action litigation. The interests of Plaintiff are coincident with, and not antagonistic to, the interests of the other Class and CPSA Class members.

70. The questions of law and fact common to the members of the Class and CPSA

Class predominate over any questions affecting only individual members, including legal and factual issues relating to liability and damages.

71. The prosecution of separate actions by individual members of the Class and CPSA Class would create a risk of inconsistent or varying adjudications with respect to individual Class and CPSA Class members, which would establish incompatible standards of conduct for Defendants.

72. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Since the damages suffered by individual members of the Class and CPSA Class may be relatively small, the expense and burden of individual litigation make it impossible for the members of the Class and CPSA Class individually to redress the wrongs done to them. The Class and CPSA Class are readily definable, and prosecution of this action as a class action will eliminate the possibility of repetitious litigation. The Court will encounter no difficulty in managing this action as a class action.

## **VII. DAMAGES**

73. For Counts II thorough VI, Plaintiff and the Class have incurred damages in the individual and aggregate amounts of their full purchase price(s) of Sibutramine Weight Loss Products from Amazon, less refunds, including but not limited to the product cost, taxes and any shipping and handling costs.

74. Plaintiff and the Class paid for Sibutramine Weight Loss Products purchased from Amazon by credit or debit card, which amounts are known to Amazon and reflected in Defendant's records.

75. Amazon charged Plaintiff's credit card \$37.83 for the purchase of *1 Day Diet* shipped on February 1, 2013, comprising the product cost and shipping and handling fees.

76. Amazon charged Plaintiff's credit card \$20.66 for the purchase of *1 Day Diet* shipped on April 27, 2013, comprising the product cost and shipping and handling fees.

77. Defendant has not refunded any monies to Plaintiff or his credit card used to make the purchases of *1 Day Diet* from Amazon.

### **VIII. EQUITABLE TOLLING**

78. Defendant has engaged in deceptive and misleading efforts to conceal the true nature of its unlawful conduct from Plaintiff and the classes through acts of omissions and misrepresentations. Defendant has intended to and has, in fact, accomplished its concealment through misrepresentations and omissions, as described herein.

79. As a result and proximate cause of Defendant's concealment and because Defendant represents that it could sell and dispense the Sibutramine Weight Loss Products without a prescription, Plaintiff and Class and CPSA Class members were likely to be reasonably unaware of Defendant's unlawful acts and the claims alleged in this action.

80. Despite possessing Plaintiff's and the classes' email and mailing addresses, and listing products by product name containing sibutramine on its website, when Amazon ceased selling Sibutramine Weight Loss Products, Amazon did not inform Plaintiff nor the Class or CPSA Class members that those products contained undisclosed sibutramine, a scheduled controlled substance and prescription drug that the FDA has stated could cause serious harm, nor did Amazon refer them to the FDA or FDA's website to learn more about the risks associated with sibutramine. Instead, Amazon kept its violations a secret from Plaintiff and

members of the Classes and has continued to market and sell weight loss products containing undisclosed sibutramine.

81. Even though possessing Plaintiff's and the Class' credit card information used to purchase the Sibutramine Weight Loss Products, when Amazon ceased selling Sibutramine Weight Loss Products, Amazon did not refund Plaintiff's and Class members' purchase prices for those products, nor did it inform Plaintiff or the Class they could seek or demand a refund.

82. Due to Defendant's omissions and efforts to conceal its unlawful sale of the Sibutramine Weight Loss Products, a reasonably diligent consumer, including members of the classes would not have reasonably learned of their claims alleged in this action, or all the material events giving rise to their claims in this action, or their damages and remedies, prior to the filing of this lawsuit.

83. Class members' lack of knowledge as to the existence of their claims against Defendant was not due to any fault or lack of reasonable diligence on their part, but rather due entirely or substantially to the acts of Defendant designed to conceal and hide the true and complete nature of its unlawful and inequitable conduct.

84. Plaintiff has been diligent in bringing his claims in this action, both individually and on behalf of the classes.

85. The statute of limitations for all claims alleged in this action should be tolled for Plaintiff and members of the classes until the date this lawsuit was filed.



**FIRST CAUSE OF ACTION**

**VIOLATION OF CONSUMER PRODUCT SAFETY ACT BY REASON OF VIOLATIONS OF THE  
RULES AND REGULATIONS OF THE CONSUMER PRODUCT SAFETY COMMISSION,  
15 U.S.C. SECTION 2051, *ET. SEQ.***

86. Plaintiff restates, re-alleges and incorporates by reference the foregoing paragraphs.

87. Plaintiff is and was in February and April 2013 the father of three children under the age of 5 years old who resided in his household.

88. Plaintiff is an “interested person” as contemplated and construed by 15 U.S.C. §2073(a).

89. Plaintiff is interested in keeping his and other children safe.

90. Pursuant to 15 U.S.C. §2068,

(a) It shall be unlawful for any person to—

(1) sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States any consumer product, or other product or substance that is regulated under this Act or any other Act enforced by the Commission, that is not in conformity with an applicable consumer product safety rule under this Act, or any similar rule, regulation, standard, or ban under any other Act enforced by the Commission;

15 U.S.C. §2068(a)(1).

91. Pursuant to the CPSA, the CPSC has promulgated a rule and regulation requiring child resistant packaging for any product that consists in whole or in part of any controlled substance. 16 C.F.R. §1700.14(a)(4).

92. The CPSC has also issued rules and regulations requiring prescription drugs to be sold in child resistant packaging. *See* 16 C.F.R. §§ 1700.14(a), 1700.15(a), (b) and (c).

93. Sibutramine is a schedule IV controlled substance, available only by prescription issued by a licensed physician. 21 U.S.C. §§ 353, 829, 841.

94. The *1 Day Diet* product sold by Defendant contained Sibutramine.

95. The other Sibutramine Weight Loss Products sold by Defendant contained Sibutramine.

96. Defendant sold and placed in commerce *1 Day Diet* without a child resistant cap or packaging in violation of the CPSC rules and regulations requiring child resistant caps and packaging required by 16 C.F.R. §§ 1700.14(a), 1700.15(a), (b) and (c).

97. On information and belief, Defendant sold and placed in commerce the Sibutramine Weight Loss Products without child resistant caps or packaging in violation of the CPSC rules and regulations requiring child resistant caps and packaging required by 16 C.F.R. §§ 1700.14(a), 1700.15(a), (b) and (c).

98. Defendant's sale of *1 Day Diet* and the Sibutramine Weight Loss Products without child resistant caps and packaging in violation of the CPSC's rules and regulations is a violation of the CPSA, and in particular 15 U.S.C. §2068(a)(1).

99. Defendant has engaged in a pattern and practice of not complying with rules and regulations promulgated by the CPSC pertaining to the sale controlled substances and prescription pharmaceuticals, which pattern and practice is likely to continue unless enjoined.

100. Pursuant to 15 U.S.C. §2073, any interested person may bring an action in any United States District Court for the district in which the defendant is found or transacts business to enforce a consumer product safety rule and to obtain injunctive relief. This cause of action is

pursuant to this statute and Plaintiff seeks injunctive relief. Plaintiff does not seek damages under the CPSA, for himself or the CPSA Class.

101. Pursuant to 15 U.S.C. §2073(a), Plaintiff, the CPSA Class seek an injunction, attorney's fees and costs, and all other appropriate legal and equitable relief and remedies for Defendant's violations of the rules promulgated by the CPSC concerning its unlawful marketing and sale of Sibutramine Weight Loss Products.

102. Pursuant to 15 U.S.C. §2073, more than 30 days prior to the commencement of this action, Plaintiff gave notice by registered mail to the Attorney General, the CPSC and Defendant of the nature of the violation, the relief requested and the court in which this action would be commenced.

## **SECOND CAUSE OF ACTION**

### **UNJUST ENRICHMENT**

103. Plaintiff restates, re-alleges and incorporates by reference the foregoing paragraphs.

104. Defendant has violated the common law of unjust enrichment in Washington, and the common laws and principles of unjust enrichment in all the states of the United States and the District of Columbia.

105. Defendant has benefited from the unlawful and inequitable acts alleged in this Complaint concerning its sales of the Sibutramine Weight Loss Products, and Defendant's retention of monies paid by Plaintiff and the Class traceable to those purchases.

106. Plaintiff and the Class have conferred upon Defendant a traceable economic benefit resulting from their purchases of the Sibutramine Weight Loss Products from Defendant.

107. The economic benefit derived by Defendant is a direct and proximate result of Defendant's sales of the Sibutramine Weight Loss Products to Plaintiff and the Class.

108. Defendant has attained an appreciation or knowledge that it was not permitted to sell products to Plaintiff and the Class containing sibutramine.

109. The financial benefits derived from or inuring to the benefit of Defendant resulting from its sales of the Sibutramine Weight Loss Products to Plaintiff and the Class rightfully and equitably belong to Plaintiff and the Class.

110. Under the common law of Washington and all states within the United States, it would be inequitable and unjust for Defendant to retain any portion of the purchase prices for its

sales of the Sibutramine Weight Loss Products to Plaintiff and the Class.

111. Plaintiff's and the classes' unintentional conferral of profits onto Defendant was brought about by Defendant's' unfair, deceptive, misleading and inequitable methods, acts and practices alleged in this Complaint.

112. Defendant should be compelled provide restitution or to disgorge in a common fund for the benefit of Plaintiff and the Class all unlawful or inequitable proceeds it received from them.

113. A constructive trust should be imposed upon all unlawful or inequitable sums received by Defendant traceable to Plaintiff and the Class for purchases from Defendant of the Sibutramine Weight Loss Products.

**THIRD CAUSE OF ACTION**

**VIOLATION OF THE WASHINGTON CONSUMER PROTECTION ACT,  
WASH. REV. CODE §§ 19.86.010, *ET SEQ.***

114. Plaintiff restates, re-alleges and incorporates by reference the foregoing paragraphs.

115. The Washington Consumer Protection Act (the “WCPA”), Section 19.86.020, provides that, “Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.

116. Defendant’s unlawful acts alleged herein were made and conducted from the State of Washington, Defendant’s principal place of business.

117. As alleged herein and above, Defendant has engaged in illegal, unfair and/or deceptive acts or practices by marketing for sale and selling the Sibutramine Weight Loss Products without a prescription from a licensed physician.

118. As alleged herein and above, Defendant has engaged in unfair and/or deceptive acts or practices by marketing for sale and selling the Sibutramine Weight Loss Products, a prescription drug, over the Internet.

119. As alleged herein and above, Defendant has engaged in unfair and/or deceptive acts or practices by dispensing the Sibutramine Weight Loss Products without being a licensed pharmacy.

120. As alleged herein and above, Defendant has engaged in unfair and/or deceptive acts or practices by dispensing the Sibutramine Weight Loss Products without complying with the CPSC rules and regulations.

121. As alleged herein and above, Defendant has engaged in unfair and/or deceptive

acts or practices by failing to notify Plaintiff and the Class when and why it ceased selling the the Sibutramine Weight Loss Products.

122. Defendant's sale of the Sibutramine Weight Loss Products to Plaintiff and the Class was made in trade or commerce, using Defendant's Internet website, [www.amazon.com](http://www.amazon.com).

123. Defendant's unfair and deceptive acts and practices concerning the marketing, sale and distribution of the Sibutramine Weight Loss Products had the capacity to deceive a substantial portion of the public into believing that the Sibutramine Weight Loss Products could be purchased without a prescription from a licensed physician, did not contain controlled substances, was safe for its intended use and could be dispensed by Defendant who was not a licensed pharmacy.

124. Defendant's unfair and deceptive acts and practices concerning the marketing, sale and distribution of the Sibutramine Weight Loss Products adversely affected the public interest, including the safety interests Plaintiff and the Class, their families and children.

125. Plaintiff and the Class have been injured as a direct and proximate result of Defendant's violations of the WCPA Section 19.86.020.

126. Plaintiff and the Class have suffered and incurred actual damages as a direct and proximate result of Defendant's violations of the WCPA Section 19.86.020, in the amount of the full cost of purchasing the Sibutramine Weight Loss Products from Defendant.

127. Plaintiff and the Class are "persons" as defined WCPA Section 19.86.010.

128. Plaintiff and the Class are entitled to pursue a claim against Defendant pursuant to WCPA Section 19.86.090 and/or WCPA Section 19.86.093 to remedy Defendants' violations of WCPA Section 19.86.020.

129. Plaintiff and the Class seek damages, statutory damages, exemplary damages, punitive damages, an injunction, restitution, disgorgement, attorney's fees and costs, and all other appropriate legal and equitable relief and remedies for Defendant's violations of the WCPA concerning its unlawful marketing and sale of the Sibutramine Weight Loss Products.

130. Even though possessing Plaintiff's and the Classes' email addresses, mailing addresses and credit card information, when Amazon ceased selling Sibutramine Weight Loss Products, it did not attempt to contact Plaintiff or the Class to alert them of the FDA's detection of sibutramine in the Sibutramine Weight Loss Products, nor to offer them a refund, nor to warn them of the serious health hazards associated with sibutramine, the Sibutramine Weight Loss Products, nor to refer them to the FDA or FDA's website to learn more about the risks associated with sibutramine, and the Sibutramine Weight Loss Products. These intentional and willful acts, practices and omissions should result in an award to Plaintiff and the Class of punitive damages.



**FOURTH CAUSE OF ACTION**

**VIOLATIONS OF CONSUMER PROTECTION LAWS  
OF STATES ADDITIONAL TO WASHINGTON**

131. Plaintiff restates, re-alleges and incorporates by reference the foregoing paragraphs.

132. In the event that the WCFA does not provide redress to Plaintiff's and all Class members' claims against Defendant, the following alternative consumer protection statutes provide a basis for redress to Plaintiff and the Class based on Defendant's unfair, deceptive, and/or misleading acts, practices and conduct concerning the sale of the Sibutramine Weight Loss Products without a prescription, while not being a licensed pharmacy and/or without the protections provided by the CPSA and the CPSC rules and the FDCA and FDA regulations, and for failing to notify Plaintiff and the Class when and why Defendant ceased selling Sibutramine Weight Loss Products along with the risks and dangers associated with continued use of those Products sold by Amazon:

(a). The Alaska Unfair Trade Practices and Consumer Protection Act, Alaska State. §§ 45.50.471 *et seq.*;

(b). The Arizona Consumer Fraud Act, Ariz. Rev. Stat. Ann. §§ 44-1521, *et seq.*;

(c). The Arkansas Deceptive Trade Practices Act, Ark. Code Ann. §§ 4-88-101, *et seq.*;

(d). The California Consumer Legal Remedies Act, Cal. Civ. Code §§ 1750, *et seq.* and/or the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*;

(e). The Colorado Consumer Protection Act, Colo. Rev. Stat. §§ 6-1-101, *et seq.*;

- (f). The Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. §§ 42-110a, *et seq.*;
- (g). The Delaware Consumer Fraud Act, Del. Code Ann. tit. 6, §§2511 *et seq.* and/or the Delaware Uniform Deceptive Trade Practices Act, Del. Code Ann. tit. 6, §2531, *et seq.*;
- (h). The District of Columbia Consumer Protection Procedures Act, D.C. Code Ann. §28-3901, *et seq.*;
- (i). The Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. §§ 501.201, *et seq.*;
- (j). The Georgia Uniform Deceptive Trade Practices Act, Ga. Code Ann. §§ 10-1-370, *et seq.*;
- (k). The Hawaii Uniform Deceptive Trade Practices Act, Haw. Rev. Stat. §§ 481A-1, *et seq.* and/or Hawaii Rev. Stat. §§ 480-1, *et seq.*;
- (l). The Idaho Consumer Protection Act, Idaho Code §§ 48-601, *et seq.*;
- (m). The Illinois Consumer Fraud and Deceptive Business Practices Act, Ill. Comp. Stat. Ann. §§ 505/1 *et seq.*;
- (n). The Indiana Deceptive Consumer Sales Act, Ind. Code Ann. §§ 24-5-0.5-1, *et seq.*;
- (o). The Kansas Consumer Protection Act, Kan. Stat. Ann. §§ 50-623, *et seq.*;
- (p). The Kentucky Consumer Protection Act, Ky. Rev. Stat. §§ 367.110, *et seq.*;
- (q). The Maine Unfair Trade Practices Act, Me. Rev. Stat. Ann. tit. 5, §§ 205A, *et seq.*;

- (r). The Maryland Consumer Protection Act, Md. Com. Law. Code Ann. §§ 13-101, *et seq.*;
- (s). The Massachusetts Regulation of Business Practice and Consumer Protection Act, Mass. Gen. Laws Ann. Ch. 93A;
- (t). The Michigan Consumer Protection Act, Mich. Comp. Laws Ann §§ 445-901, *et seq.*;
- (u). The Minnesota Prevention of Consumer Fraud Act, Minn. Stat. Ann. §§ 325F.68, *et seq.*;
- (v). The Missouri Merchandising Practices Act, Mo. Rev. Stat. §§ 407.010, *et seq.*;
- (w). The Nebraska Consumer Protection Act, Neb. Rev. Stat. §§ 59-1601, *et seq.*;
- (x). The Nevada Trade Regulation and Practices Act, Nev. Rev. Stat. §§ 598.0903 *et seq.* and/or Nevada Rev. Stat. §41.600;
- (y). The New Hampshire Consumer Protection Act, N.H. Rev. Stat. Ann., §§ 358-A:1, *et seq.*;
- (z). The New Jersey Consumer Fraud Act, N.J. Stat. Ann. §§ 56:8-1, *et seq.*
- (aa). The New Mexico Unfair Practices Act, N.M. Stat. Ann., §§ 57-12-1, *et seq.*;
- (bb). The New York General Business Law §349, *et seq.*;
- (cc). North Carolina, N.C. Gen. Stat. §§ 75-1.1, *et seq.*;
- (dd). North Dakota, N.D. Gen. Stat. §§ 51-15-01, *et seq.*;
- (ee). The Ohio Consumer Sales Practices Act, Ohio Rev. Code Ann. §§ 1345.01, *et seq.*;
- (ff). The Oklahoma Consumer Protection Act, Okla. Stat. Ann. tit. 15, §§ 751, *et seq.*;

(gg). The Oregon Unlawful Trade Practices Law, Or. Rev. Stat., §§ 646-605 *et seq.*;

(hh). The Pennsylvania Unfair Trade Practices and Consumer Protection Law, Pa. Stat. Ann. tit. 73, §§ 201-1, *et seq.*;

(ii). The Rhode Island Unfair Trade Practices and Consumer Protection Act, R.I. Gen. Law §§ 6-13.1-1, *et seq.*;

(ij). The South Dakota Deceptive Trade Practices and Consumer Protection Act, S.D. Codified Laws Ann. §§ 37-24-1, *et seq.*;

(kk). The Texas Deceptive Trade Practices – Consumer Protection Act, Tex. Bus. & Com. Code Ann. §§ 17.41, *et seq.*;

(ll). The Vermont Consumer Fraud Act, Vt. Stat. Ann. tit. 9, §§ 2451, *et seq.*;

(mm). West Virginia, W.Va. Code §§ 46A-6-101, *et seq.*;

(nn). Wisconsin, Wisc. Stat. Ann. §100.18; and

(oo). The Wyoming Consumer Protection Act, Wyo. Stat. §40-12-101, *et seq.*

133. Plaintiff and the Class have been injured as a direct and proximate result of Defendant's violations of the state consumer protection laws recited in this Count.

134. Plaintiff and the Class have suffered and incurred actual damages as a direct and proximate result of Defendant's violations of the state consumer protection laws recited in this Count, in the amount of the full cost of purchasing *1 Day Diet* from Defendant.

135. To the extent required to state a claim under any statute listed in this Count, Plaintiff and the class reasonably relied on Defendant's misrepresentations, unfair and deceptive statements, material omissions concerning its marketing, sale and distribution of *1 Day Diet*.

136. Defendant's unfair and deceptive acts and practices concerning its marketing, sale

and distribution of *1 Day Diet* were knowing, willful and/or reckless.

137. Plaintiff and the Class are consumers who purchased *1 Day Diet* from Defendant for personal or family use.

138. Plaintiff and the Class are entitled to pursue claims against Defendant pursuant to the state consumer protection laws recited in this Count.

139. Plaintiff and the Class seek damages, statutory damages, exemplary damages, punitive damages, an injunction, restitution, disgorgement attorney's fees and costs, and all other appropriate legal and equitable relief and remedies for Defendant's violations of the WCPA concerning its unlawful marketing, sale and distribution of the Sibutramine Weight Loss Products.

140. Even though possessing Plaintiff's and the Classes' email addresses, mailing addresses and credit card information, when Amazon ceased selling Sibutramine Weight Loss Products, it did not attempt to contact Plaintiff or the Class to alert them of the FDA's detection of sibutramine in the Sibutramine Weight Loss Products, nor to offer them a refund, nor to warn them of the serious health hazards associated with sibutramine, the Sibutramine Weight Loss Products, nor to refer them to the FDA or FDA's website to learn more about the risks associated with sibutramine, and the Sibutramine Weight Loss Products. These intentional and willful acts, practices and omissions should result in an award to Plaintiff and the Class of punitive damages.

**FIFTH CAUSE OF ACTION**

**BREACH OF IMPLIED WARRANTIES UNDER  
WASH. REV. CODE §§ 62A.2-314 AND 62A.2-315**

141. Plaintiff restates, re-alleges and incorporates by reference the foregoing paragraphs.

142. Defendant's unlawful acts alleged herein were made and conducted from the State of Washington, Defendant's principal place of business.

143. Defendant marketed and sold the Sibutramine Weight Loss Products to Plaintiff and the Class.

144. Defendant's marketing of the Sibutramine Weight Loss Products to Plaintiff and the Class impliedly warranted the products were merchantable and fit for their ordinary purposes and did not contain any scheduled controlled substances listed by the FDA as requiring a prescription from a licensed physician. The Sibutramine Weight Loss Products were not merchantable and were not fit for their ordinary purposes.

145. Defendant's marketing of the Sibutramine Weight Loss Products to Plaintiff and the Class impliedly warranted the products were merchantable and could be sold by Defendant without a prescription issued to Plaintiff and Class members by a licensed physician.

146. Defendant's marketing of the Sibutramine Weight Loss Products to Plaintiff and the Class impliedly warranted the products were merchantable and could be sold by Defendant even though Defendant was not a licensed pharmacy.

147. Defendant's representations and implied warranties were false, misleading, and inaccurate, insofar that the Sibutramine Weight Loss Products did contain a scheduled controlled substance in the form of sibutramine.

148. Defendant's representations and implied warranties were false, misleading and inaccurate, insofar that the Sibutramine Weight Loss Products could not legally be sold to Plaintiff or the Class without a prescription from a licensed physician.

149. Defendant's representations and implied warranties were false, misleading, and inaccurate, insofar that the Sibutramine Weight Loss Products could not be legally sold or dispensed by a non-licensed pharmacy such as Defendant.

150. The Defendant promised on the face of the container that *1 Day Diet* would do "No Harm." Representations on the other Sibutramine Weight Loss Products containers, packaging or inserts similarly claimed those products would not cause harm. Contrary to those promises, as determined by the FDA, the sibutramine contained in *1 Day Diet* and the other Sibutramine Weight Loss Products is harmful. According to the FDA, the "[P]roduct poses a threat to consumers because sibutramine is known to substantially increase blood pressure and/or pulse rate and may present a significant risk for patients with a history of coronary artery disease, congestive heart failure, arrhythmias, or stroke. This product may also interact, in life threatening ways, with other medicines a consumer may be taking." *November 21, 2013 FDA Public Notification* about *1 Day Diet*. Specifically, an FDA trial study "demonstrated a 16 percent increase in the risk of serious heart events, including non-fatal heart attack, non-fatal stroke, the need to be resuscitated once the heart stopped, and death, in a group of patients given sibutramine compared to another given a placebo." *October 8, 2010 FDA Press Release*.

151. Defendant breached its warranty of merchantability since the Sibutramine Weight Loss Products did not conform to the promises or affirmations of fact made on the containers and product packaging. The promise of "No Harm" was false.



152. Plaintiff and the Class members did rely on said implied warranties made by Defendant concerning the sale of the Sibutramine Weight Loss Products, including the implied warranty of merchantability.

153. To the extent required to state a claim for breach of implied warranty, Plaintiff and the Class members reasonably relied upon the skill and judgment of Defendant as to whether the Sibutramine Weight Loss Products contained a scheduled controlled substance, whether the Sibutramine Weight Loss Products could be sold without a prescription from a licensed physician, whether the Sibutramine Weight Loss Products could be sold and dispensed by Defendant while not being a licensed pharmacy and whether the Sibutramine Weight Loss Products were of merchantable quality.

154. Defendant breached its implied warranties made and owed to Plaintiff and the Class, insofar as the Sibutramine Weight Loss Products were not fit for sale and could not legally be sold without a prescription and could be dispensed only by a licensed pharmacy insofar as it contained sibutramine, a scheduled controlled substance.

155. As a direct and proximate result of Defendant's breach of implied warranties, Plaintiff and the Class members suffered economic loss and actual harm in the amount of their full purchase price of the Sibutramine Weight Loss Products from Defendant. The *1 Day Diet* product received by Plaintiff from Defendant was worthless.

156. Defendant's breach of its implied warranties concerning the marketing and sale of the Sibutramine Weight Loss Products violated the Uniform Commercial Code, codified in Washington State as Wash. Rev. Code Section 62A.2-314.

157. Defendant's breach of its implied warranties concerning the marketing and sale

of the Sibutramine Weight Loss Products violated the Uniform Commercial Code, codified in Washington state as Wash. Rev. Code Section 62A.2-315.

158. Plaintiff and the Class seek damages, statutory damages, restitution, disgorgement, an injunction, attorney's fees and costs, and all other appropriate legal and equitable relief and remedies to remedy Defendant's violations of Wash. Rev. Code Sections 62A.2-314 and 62A.2-315.

**SIXTH CAUSE OF ACTION**

**BREACH OF IMPLIED WARRANTIES IN STATES ADDITIONAL TO WASHINGTON**

159. Plaintiff restates, re-alleges and incorporates by reference the foregoing paragraphs.

160. In the event that the Wash. Rev. Code Sections 62A.2-314 and 62A.2-315 do not provide redress to Plaintiff and all Class members' breach of implied warranty claims against Defendant, the following alternative state laws based on the Uniform Commercial Code providing claims for breach of implied warranties provide a basis for redress to Plaintiff and the Class based on Defendant's implied warranties concerning the merchantability, marketing and sale of the other Sibutramine Weight Loss Products without a prescription, while not being a licensed pharmacy and/or as not containing a controlled substance in the form of sibutramine:

- (a). Alabama, Ala. Code §§ 7-2-314 and 7-2-315;
- (b). Alaska, Alaska State. §§ 45.02.314 and 45.02.315;
- (c). Arizona, Ariz. Rev. Stat. Ann. §§ 47-2314 and 47-2315;
- (d). Arkansas, Ark. Code Ann. §§ 7-2-314 7-2-315;
- (e). California, Cal. Comm. Code §§ 2314 and 2315;
- (f). Colorado, Colo. Rev. Stat. §§ 4-2-314 and 4-2-315;
- (g). Connecticut, Conn. Gen. Stat. §§ 42a-2-314 and 42a-2-315;
- (h). Delaware, Del. Code Ann. tit. 6, §§ 2-314 and 2-315;
- (i). District of Columbia, D.C. Code Ann. §§ 28:2-314 and 28:2-315;
- (j). Florida, Fla. Stat. Ann. §§ 672.314 and 672.315;
- (k). Georgia, Ga. Code Ann. §§ 11-2-314 and 11-2-315;

- (l). Hawaii, Haw. Rev. Stat. §§ 490:2-314 and 490:2-315;
- (m). Idaho, Idaho Code §§ 28-2-314 and 28-2-315;
- (n). Illinois, 810 Ill. Comp. Stat. Ann. §§ 5/2-314 and 5/2-315;
- (o). Indiana, Ind. Code Ann. §§ 26-1-2-314 and 26-1-2-315;
- (p). Iowa, Iowa Code §§ 554.2314 and 554.2315;
- (q). Kansas, Kan. Stat. Ann. §§ 84-2-314 and 84-2-315;
- (r). Kentucky, Ky. Rev. Stat. §§ 355.2-314 and 355.2-315;
- (s). Louisiana, La. Civ. Code Ann. Art. 2524;
- (t). Maine, Me. Rev. Stat. Ann. §§ 2-314 and 2-315;
- (u). Maryland, Md. Com. Law. Code Ann. §§ 2-314 and 2-315;
- (v). Massachusetts, Mass. Gen. Laws Ann. Ch. 106 §§ 2-314 and 2-315;
- (w). Michigan, Mich. Comp. Laws Ann §§ 440.2314 and 440.2315;
- (x). Minnesota, Minn. Stat. Ann. §§ 336.2-314 and 336.2-315;
- (y). Mississippi, Miss. Code Ann. §§ 75-2-314 and 75-2-315;
- (z). Missouri, Mo. Rev. Stat. §§ 400.2-314 and 400.2-315;
- (aa). Montana, Mont. Code Ann. §§ 30-2-314 and 30-2-315;
- (bb). Nebraska, Neb. Rev. Stat. §§ 2-314 and 2-315;
- (cc). Nevada, Nev. Rev. Stat. §§ 104.2314 and 104.2315;
- (dd). New Hampshire, N.H. Rev. Stat. Ann., §§ 382-A:2-314 and 382-A:2-315;
- (ee). New Jersey, N.J. Stat. Ann. §§ 12A:2-314 and 12A:2-315;
- (ff). New Mexico, N.M. Stat. Ann., §§ 55-2-314 and § 55-2-315;
- (gg). New York, N.Y. U.C.C. §§ 2-314 and 2-315;

- (hh). North Carolina, N.C. Gen. Stat. §§ 25-2-314 and 25-2-315;
- (ii). North Dakota, N.D. Gen. Stat. §§ 41-02-31 and 41-02-32;
- (jj). Ohio, Ohio Rev. Code Ann. §§ 1302.27 and 1302.28;
- (kk). Oklahoma, Okla. Stat. Ann. tit. 12A, §§ 2-314 and 2-315;
- (ll). Oregon, Or. Rev. Stat. §§ 72.8020 and 72.8030;
- (mm). Pennsylvania, Pa. Stat. Ann. tit. 13, §§ 2314 and 2315;
- (nn). Rhode Island, R.I. Gen. Law §§ 6A-2-314 and 6A-2-315;
- (oo). South Carolina, S.C. Code Ann. §§ 36-2-314 and 36-2-315;
- (pp). South Dakota, S.D. Codified Laws Ann. §§ 57A-2-314 and 57A-2-315;
- (qq). Tennessee, Tenn. Code. Ann. §§ 47-2-314 and 47-2-315;
- (rr). Texas, Tex. Bus. & Com. Code Ann. §§ 2.314 and 2.315;
- (ss). Utah, Ut. Code Ann. §§ 70A-2-314 and 70A-2-315;
- (tt). Vermont, Vt. Stat. Ann. tit. 9, §§ 314 and 315;
- (uu). Virginia, Va. Code Ann. § 8.2-314 and § 8.2-315;
- (vv). West Virginia, W. Va. Code §§ 46-2-314 and 46-2-315;
- (ww). Wisconsin, Wis. Stat. Ann. §§ 402.314 and §402.314; and
- (xx). Wyoming, Wyo. Stat. §§ 34.1-2-314 and 34.1-2-315.

161. Defendant marketed, sold and dispensed *1 Day Diet* to Plaintiff and the Class.

162. Defendant's marketing of the Sibutramine Weight Loss Products to Plaintiff and the Class impliedly warranted the product was merchantable and did not contain any controlled substances listed by the FDA as requiring a prescription from a licensed physician.

163. Defendant's marketing of the Sibutramine Weight Loss Products to Plaintiff and

the Class impliedly warranted the product was merchantable and could be sold by Defendant without a prescription issued to Plaintiff and Class members by a licensed physician.

164. Defendant's marketing of the other Sibutramine Weight Loss Products to Plaintiff and the Class impliedly warranted the products were merchantable and could be sold by Defendant even though Defendant was not a licensed pharmacy.

165. Defendant's representations and implied warranties were false, misleading, and inaccurate, insofar as the other Sibutramine Weight Loss Products did contain a controlled substance in the form of sibutramine.

166. Defendant's representations and implied warranties were false, misleading, and inaccurate, insofar that the other Sibutramine Weight Loss Products could not be sold to Plaintiff or the Class without a prescription from a licensed physician.

167. Defendant's representations and implied warranties were false, misleading, and inaccurate, insofar as the Sibutramine Weight Loss Products could not be sold or dispensed by a non-licensed pharmacy such as Defendant.

168. To the extent required to state a claim for breach of implied warranty, Plaintiff and the Class members did rely on the implied warranties made by Defendant concerning the sale of the Sibutramine Weight Loss Products, including the implied warranty of merchantability.

169. To the extent required to state a claim for breach of implied warranty, Plaintiff and the Class members reasonably relied upon the skill and judgment of Defendant as to whether the Sibutramine Weight Loss Products contained a scheduled controlled substance, whether the Sibutramine Weight Loss Products could be sold without a prescription from a

licensed physician, whether the Sibutramine Weight Loss Products could be sold and dispensed by Defendant while not being a licensed pharmacy and whether the Sibutramine Weight Loss Products were of merchantable quality.

170. Defendant breached its implied warranties made and owed to Plaintiff and the Class, as the Sibutramine Weight Loss Products were not fit for sale and could not legally be sold without a prescription and could be dispensed only by a licensed pharmacy insofar as they contained sibutramine, a scheduled controlled substance.

171. As a direct and proximate result of Defendant's breach of implied warranties, Plaintiff and the Class members suffered economic loss and actual harm in the amount of their full purchase price of the Sibutramine Weight Loss Products from Defendant.

172. The Sibutramine Weight Loss Products Plaintiff and Class members purchased from Defendant were worthless for its intended and ordinary purpose.

173. Defendant's breach of its implied warranties concerning the marketing and sale of the Sibutramine Weight Loss Products violated the Uniform Commercial Code, codified by the state laws recited in this Count.

174. Defendant's breach of its implied warranties concerning the marketing and sale of the Sibutramine Weight Loss Products violated the Uniform Commercial Code, codified by the state laws recited in this Count.

175. Plaintiff and the Class seek damages, statutory damages, restitution, disgorgement, an injunction, attorney's fees and costs, and all other appropriate legal and equitable relief and remedies to remedy Defendant's violations of the state laws recited in this Count.



**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, prays for judgment against Defendant as follows:

A. An order certifying this case as a class action under FED. R. CIV. P. 23, and appointing Plaintiff and his counsel to represent the classes;

B. An order declaring that Defendant's alleged acts and practices constitute violations of the Consumer Product Safety Act by reason of Defendant's violations of the rules and regulations promulgated by the Consumer Product Safety Commission;

C. To remedy Defendant's violation of the rules and regulations promulgated by the Consumer Product Safety Commission, awarding Plaintiff and the Class an injunction enjoining Defendant from selling products that do not conform to the Consumer Product Safety Commission rules and regulations requiring child resistant packaging and the Commission's rules and regulations prohibiting the selling of controlled substances over the Internet without a valid prescription and requiring Defendant to establish reasonable procedures to ensure that the products it sells conform to all Consumer Product Safety Commission Rules, as well as an award of attorneys' fees and costs, and all other appropriate relief and remedies;

D. An order declaring that Defendant's alleged acts and practices caused it to receive an unjust enrichment paid by Plaintiff and the Class;

E. To remedy Defendant's unjust enrichment, an order requiring restitution by Defendant to Plaintiff and the Class, individually and collectively, in an amount comprising the full purchase price(s) of the Sibutramine Weight Loss Products together with all shipping, handling, taxes and related costs paid by Plaintiff and the Class to Defendant; an order

requiring Defendant to disgorge to Plaintiff and the Class, individually and collectively, the full purchase price(s) of the Sibutramine Weight Loss Products together with all shipping, handling, taxes and related costs paid by Plaintiff and the Class to Defendant, along with an award of attorneys' fees, costs, and the imposition of a constructive trust over the full purchase price(s) of the Sibutramine Weight Loss Products together with all shipping, handling, taxes and related costs paid by Plaintiff and the Class to Defendant, and all other appropriate relief and remedies;

F. An order declaring that Defendant's alleged acts and practices constitute violations of the Washington Consumer Protection Act, or alternately the state consumer protection laws recited in Plaintiff's Fourth Cause of Action;

G. To remedy Defendant's violations of the Washington Consumer Protection Act, or alternately, the state consumer protection laws recited in Plaintiff's Fourth Cause of Action, an order awarding Plaintiff and the Class damages, statutory damages, exemplary damages, punitive damages, an injunction, restitution, disgorgement, constructive trust, attorney's fees, costs, and all other appropriate legal and equitable relief and remedies;

H. An order declaring that Defendant's alleged acts and practices constitute breaches its implied warranties and violated of the Uniform Commercial Code codified in Washington as Wash. Rev. Code Sections 62A.2-314 and 62A.2-315, or alternately the state implied warranty laws recited in Plaintiff's Sixth Cause of Action;

I. To remedy Defendant's violations of Wash. Rev. Code Sections 62A.2-314 and 62A.2-315, or alternately the state implied warranty laws recited in Plaintiff's Sixth Cause of Action, an order awarding Plaintiff and the Class damages, statutory damages, an injunction, restitution, disgorgement, constructive trust, attorney's fees, costs, and all other appropriate

legal and equitable relief and remedies;

J. Pre-judgment and post-judgment interest to fullest extent permitted by law; and


K. All such other relief as this Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands trial by jury for all claims to the extent authorized by law.

DATED: July 28, 2014

**TUSA P.C.**

/s/ Joseph S. Tusa 

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# **EXHIBIT A**

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## Drugs

### Tainted Weight Loss Products

For more medication health fraud topics, please see our [Medication Health Fraud<sup>1</sup>](#) page.



FDA has identified an emerging trend where over-the-counter products, frequently represented as dietary supplements, contain hidden active ingredients that could be harmful. Consumers may unknowingly take products laced with varying quantities of approved prescription drug ingredients, controlled substances, and untested and unstudied pharmaceutically active ingredients. These deceptive products can harm you! Hidden ingredients are increasingly becoming a problem in products promoted for weight loss.

**Remember, FDA cannot test all products on the market that contain potentially harmful hidden ingredients. Enforcement actions and consumer advisories for tainted products only cover a small fraction of the tainted over-the-counter products on the market.**

### Public Notifications

- 07/08/2014 Public Notification: Mix Fruit Slimming Contains Hidden Drug Ingredients <sup>2</sup>
- 07/08/2014 Public Notification: Lingzhi Cleansed Slim Tea Contains Hidden Drug Ingredient <sup>3</sup>
- 07/08/2014 Public Notification: 24 Ince Contains Hidden Drug Ingredient <sup>4</sup>
- 07/08/2014 Public Notification: Lipo 8 Burn Slim Capsules Contain Hidden Drug Ingredient <sup>5</sup>
- 07/08/2014 Public Notification: Sliming (sic) Diet By Pretty White Contains Hidden Drug Ingredient <sup>6</sup>
- 07/08/2014 Public Notification: Trim-Fast Slimming Softgel Contains Hidden Drug Ingredient <sup>7</sup>
- 06/17/2014 Public Notification: Sport Burner Contains Hidden Drug Ingredient <sup>8</sup>
- 06/17/2014 Public Notification: Toxin Discharged Tea Contains Hidden Drug Ingredient <sup>9</sup>
- 06/17/2014 Public Notification: Sliming Diet Contains Hidden Drug Ingredient <sup>10</sup>
- 06/10/2014 Public Notification: La Jiao Shou Shen Contains Hidden Drug Ingredient <sup>11</sup>
- 06/05/2014 Public Notification: B-Perfect Contains Hidden Drug Ingredient <sup>12</sup>
- 05/16/2014 Public Notification: Asset Bold Contains Hidden Drug Ingredient <sup>13</sup>
- 05/12/2014 Public Notification: Asset Bee Pollen Contains Hidden Drug Ingredient <sup>14</sup>
- 05/05/2014 Public Notification: Natural Body Solution Contains Hidden Drug Ingredient <sup>15</sup>
- 05/05/2014 Public Notification: Slim Trim U Contains Hidden Drug Ingredient <sup>16</sup>
- 04/10/2014 Public Notification: Lite Fit USA Contains Hidden Drug Ingredient <sup>17</sup>
- 04/10/2014 Public Notification: Infinity Contains Hidden Drug Ingredient <sup>18</sup>
- 04/02/2014 Public Notification: New You Contains Hidden Drug Ingredients <sup>19</sup>
- 03/19/2014 Public Notification: Vitaccino Coffee Contains Hidden Drug Ingredient <sup>20</sup>

- 01/28/2014 Public Notification: Citrus Fit Gold Contains Hidden Drug Ingredient <sup>21</sup>
- 01/28/2014 Public Notification: Tonic Life BP Contains Hidden Drug Ingredient <sup>22</sup>
- 01/28/2014 Public Notification: Hot Detox Contains Hidden Drug Ingredient <sup>23</sup>
- 01/28/2014 Public Notification: Thinogenics Contains Hidden Drug Ingredient <sup>24</sup>
- 01/21/2014 Public Notification: Dream Body Slimming Capsule Contains Hidden Drug Ingredient <sup>25</sup>
- 01/21/2014 Public Notification: Magic Slim Contains Hidden Drug Ingredient <sup>26</sup>
- 12/19/2013 Public Notification: Meizitang Citrus Contains Hidden Drug Ingredients <sup>27</sup>
- 12/19/2013 Public Notification: Asset Extreme Plus Contains Hidden Drug Ingredients <sup>28</sup>
- 12/19/2013 Public Notification: 7 Days Herbal Slim Contains Hidden Drug Ingredients <sup>29</sup>
- 12/19/2013 Public Notification: Dr. Ming's Chinese Capsule Contains Hidden Drug Ingredients <sup>30</sup>
- 12/19/2013 Public Notification: SlimEasy Herbs Capsule Contains Hidden Drug Ingredients <sup>31</sup>
- 12/19/2013 Public Notification: Sliming (sic) Diet Berry Plus Contains Hidden Drug Ingredients <sup>32</sup>
- 12/19/2013 Public Notification: Asset Extreme Contains Hidden Drug Ingredients <sup>33</sup>
- 11/21/2013 Public Notification: "SlimExtra Herbal Capsules" Contains Hidden Drug Ingredient <sup>34</sup>
- 11/21/2013 Public Notification: Diet Master Contains Hidden Drug Ingredients <sup>35</sup>
- 11/21/2013 Public Notification: Super Slim Contains Hidden Drug Ingredients <sup>36</sup>
- 11/21/2013 Public Notification: "1 Day Diet" Contains Hidden Drug Ingredient <sup>37</sup>
- 11/21/2013 Public Notification: Body Beauty 5 Days Slimming Coffee Contains Hidden Drug Ingredient <sup>38</sup>
- 11/20/2013 Public Notification: Slim Max Contains Hidden Drug Ingredients <sup>39</sup>
- 11/07/2013 Public Notification: Jimpness Beauty Fat Loss Capsules contain hidden drug ingredients <sup>40</sup>
- 11/05/2013 Public Notification: Goodliness Fat-Reducing Capsules Contain Hidden Drug Ingredients <sup>41</sup>
- 10/10/2013 Public Notification: "Bella Vi Insane Amp'd" and "Bella Vi Amp'd Up" Contain Hidden Drug Ingredients <sup>42</sup>
- 10/10/2013 Public Notification: "Be Inspired" Contains Hidden Drug Ingredients <sup>43</sup>
- 10/10/2013 Public Notification: "Dr. Mao Slimming Capsules" Contain Hidden Drug Ingredient <sup>44</sup>
- 10/10/2013 Public Notification: "Perfect Body Solutions" and "Burn 7" Contain Hidden Drug Ingredient <sup>45</sup>
- 09/17/2013 Public Notification: "Instant Slim" Also Known as "收腹提臀 果香型减肥胶囊" or "Shou Fu Ti Tun Guo Xiang Xing Jian Fei Jiao Nang" Contains Hidden Drug Ingredient <sup>46</sup>
- 06/27/2013 Public Notification: "Meizi Evolution" Contains Hidden Drug Ingredient <sup>47</sup>
- 06/27/2013 Public Notification: "Strawberry Balance" Contains Hidden Drug Ingredient <sup>48</sup>
- 06/17/2013 Public Notification: "Fruit and Plant Slimming" Contains Hidden Drug Ingredient <sup>49</sup>
- 06/17/2013 Public Notification: "Paiyouji Plus" Contains Hidden Drug Ingredient <sup>50</sup>
- 06/17/2013 Public Notification: "Extreme Body Slim" Contains Hidden Drug Ingredient <sup>51</sup>
- 06/17/2013 Public Notification: "Fat Zero" Contains Hidden Drug Ingredient <sup>52</sup>
- 06/10/2013 Public Notification: "Bethel 30" Contains Hidden Drug Ingredient <sup>53</sup>
- 06/10/2013 Public Notification: "XIYOUJI QINGZHI CAPSULE" Contains Hidden Drug Ingredient <sup>54</sup>
- 04/03/2013 Public Notification: "MAXILOSS Weight Advanced Blue" Contains Hidden Drug Ingredient <sup>55</sup>
- 01/08/2013 Public Notification: "MAXILOSS Weight Advanced" Contains Hidden Drug Ingredient <sup>56</sup>
- 12/20/2012 Public Notification: "SLIMDIA Revolution" Contains Hidden Drug Ingredient <sup>57</sup>
- 11/08/2012 Public Notification: Best Share Green Coffee: Brazilian Slimming Coffee Contains Hidden Drug Ingredient <sup>58</sup>
- 11/08/2012 Public Notification: Japan Hokkaido Slimming Weight Loss Pills Contains Hidden Drug Ingredient <sup>59</sup>
- 11/08/2012 Public Notification: Beautiful Slim Body Contains Hidden Drug Ingredients <sup>60</sup>
- 10/24/2012 Public Notification: "Ultimate Formula Bee Pollen Capsules" Contains Hidden Drug Ingredient <sup>61</sup>

- 10/24/2012 Public Notification: "Zi Xiu Tang Bee Pollen Capsules" Contains Hidden Drug Ingredient <sup>62</sup>
- 10/04/2012 Public Notification: "Tianji True Slim" Contains Hidden Drug Ingredient <sup>63</sup>
- 04/03/2012 Public Notification: "Japan Rapid Weight Loss Diet Pills Yellow" Contains Hidden Drug Ingredient <sup>64</sup>
- 04/03/2012 Public Notification: "Japan Rapid Weight Loss Diet Pills Green" Contains Hidden Drug Ingredient <sup>65</sup>
- 02/18/2012 Public Notification: "Japan Weight Loss Blue" Contains Undeclared Drug Ingredient <sup>66</sup>
- 10/18/2011 Public Notification: "Slender Slim 11" Contains Undeclared Drug Ingredient <sup>67</sup>
- 10/17/2011 Public Notification: "Advanced Slim 5" Contains Undeclared Drug Ingredient <sup>68</sup>
- 10/18/2011 Public Notification: "A-Slim 100% Natural Slimming Capsule" Contains Undeclared Drug Ingredient <sup>69</sup>
- 10/18/2011 Public Notification: "Dream Body Slimming Capsule" Contains Undeclared Drug Ingredient <sup>70</sup>
- 10/18/2011 Public Notification: "Ja Dera 100% Natural Weight Loss Supplement" Contains Undeclared Drug Ingredient <sup>71</sup>
- 10/18/2011 Public Notification: "Leisure 18 Slimming Coffee" Contains Undeclared Drug Ingredient <sup>72</sup>
- 10/18/2011 Public Notification: "Lishou" Contains Undeclared Drug Ingredient <sup>73</sup>
- 10/18/2011 Public Notification: "Magic Slim Tea" Contains Undeclared Drug Ingredient <sup>74</sup>
- 10/18/2011 Public Notification: "Magic Slim Weight Reduction Capsule" Contains Undeclared Drug Ingredient <sup>75</sup>
- 10/18/2011 Public Notification: "P57 Hoodia" Contains Undeclared Drug Ingredient <sup>76</sup>
- 10/18/2011 Public Notification: "PhentraBurn Slimming Capsules" Contains Undeclared Drug Ingredient <sup>77</sup>
- 10/18/2011 Public Notification: "Sheng Yuan Fang" Contains Undeclared Drug Ingredient <sup>78</sup>
- 10/18/2011 Public Notification: "Tengda" Contains Undeclared Drug Ingredient <sup>79</sup>
- 10/18/2011 Public Notification: "Acai Berry Soft Gel ABC" Contains Undeclared Drug Ingredient <sup>80</sup>
- 10/18/2011 Public Notification: "Botanical Slimming" Contains Undeclared Drug Ingredient <sup>81</sup>
- 10/18/2011 Public Notification: "DaiDaiHuaJiaoNang" Contains Undeclared Drug Ingredient <sup>82</sup>
- 10/18/2011 Public Notification: "Fruit Plant Lossing Fat Capsule" Contains Undeclared Drug Ingredient <sup>83</sup>
- 10/18/2011 Public Notification: "Health Slimming Coffee" Contains Undeclared Drug Ingredient <sup>84</sup>
- 10/18/2011 Public Notification: "Lose Weight Coffee" Contains Undeclared Drug Ingredient <sup>85</sup>
- 10/18/2011 Public Notification: "Pai You Guo Slim Tea" Contains Undeclared Drug Ingredient <sup>86</sup>
- 07/08/2011 Public Notification: "Slim Forte Slimming Capsules," "Slim Forte Slimming Coffee," and Botanical Slimming Soft Gel" Contain Undeclared Drug Ingredient <sup>87</sup>
- 07/08/2011 Public Notification: "Slim Forte Slimming Capsule" and "Slim Forte Double Power Slimming Capsules" Contain Undeclared Drug Ingredient <sup>88</sup>
- 05/10/2011 Public Notification: "Slim Xtreme Herbal Slimming Capsule" Contains Undeclared Drug Ingredient <sup>8</sup>
- 01/12/2011 Public Notification: "Celerite Slimming Capsules" Contains Undeclared Drug Ingredient <sup>90</sup>
- 12/30/2010 FDA warns consumers not to use Fruta Planta weight loss products <sup>91</sup> [ARCHIVED]
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## News & Events

### FDA NEWS RELEASE

**This press release was revised on January 8, 2009 to include updated information.**

### FOR IMMEDIATE RELEASE

December 22, 2008

#### Media Inquiries:

Rita Chappelle, 240-753-8603

#### Consumer Inquiries:

888-INFO-FDA

### FDA Expands Warning to Consumers About Tainted Weight Loss Pills

#### List increases from 28 to 69 products; Agency seeking recalls

The U.S. Food and Drug Administration is expanding its nationwide alert to consumers about tainted weight loss pills that contain undeclared, active pharmaceutical ingredients. On December 22, 2008, FDA warned consumers not to purchase or consume 28 different products marketed for weight loss. Since that time, FDA analysis has identified 41 more tainted weight loss products that may put consumers' health at risk.

The tainted weight loss products are:

|                                      |                                |                            |
|--------------------------------------|--------------------------------|----------------------------|
| Fatloss Slimming                     | 2 Day Diet                     | 3x Slimming Power          |
| Japan Lingzhi 24 Hours Diet          | 5x Imelda Perfect Slimming     | 3 Day Diet                 |
| 7 Day Herbal Slim                    | 8 Factor Diet                  | 7 Diet Day/Night Formula   |
| 999 Fitness Essence                  | Extrim Plus                    | GMP                        |
| Imelda Perfect Slim                  | Lida DaiDaihua                 | Miaozi Slim Capsules       |
| Perfect Slim                         | Perfect Slim 5x                | Phyto Shape                |
| ProSlim Plus                         | Royal Slimming Formula         | Slim 3 in 1                |
| Slim Express 360                     | Slimtech                       | Somotrim                   |
| Superslim                            | TripleSlim                     | Zhen de Shou               |
| Venom Hyperdrive 3.0                 | Starcaps                       | Slim Waistline             |
| Slim Waist Formula                   | Slim Up                        | Sliminate                  |
| Slim Fast                            | 2x Powerful Slimming           | Slim Express 4 in 1        |
| Reduce Weihgt                        | Super Fat Burner               | Super Slimming             |
| Sana Plus                            | Trim 2 Plus                    | Powerful Slim              |
| Waist Strength Formula               | Slimming Formula               | Perfect Slim Up            |
| Slim Burn                            | Slim 3 in 1 Slim Formula       | Slim 3 in 1 M18 Royal Diet |
| Slim 3 in 1 Extra Slim Waist Formula | Slim 3 in 1 Extra Slim Formula | Natural Model              |
| 2 Day Diet Slim Advance              | Miaozi MeiMiaoQianZIJiaoNang   | Meizitang                  |
| Meili                                | JM Fat Reducer                 | Imelda Fat Reducer         |
| 7 Days Diet                          | Extrim Plus 24 Hour Reburn     | Fasting Diet               |
| Cosmo Slim                           | Body Slimming                  | Body Shaping               |
| Body Creator                         | BioEmagrecin                   | 3 Days Fit                 |
| 21 Double Slim                       | Eight Factor Diet              | 7 Diet                     |

An FDA analysis found that the undeclared active pharmaceutical ingredients in some of these products include sibutramine (a controlled substance), rimonabant (a drug not approved for marketing in the United States), phenytoin (an anti-seizure medication), phenolphthalein (a solution used in chemical experiments and a suspected cancer causing agent) and bumetanide (a diuretic). Some of the amounts of active pharmaceutical ingredients far exceeded the FDA-recommended levels, putting consumers' health at risk.

These weight loss products, some of which are marketed as "dietary supplements," are promoted and sold on



various Web sites and in some retail stores. Some of the products claim to be "natural" or to contain only "herbal" ingredients, but actually contain potentially harmful ingredients not listed on the product labels or in promotional advertisements. These products have not been approved by the FDA, are illegal and may be potentially harmful to unsuspecting consumers.

The FDA advises consumers who have used any of these products to stop taking them and consult their healthcare professional immediately. The FDA encourages consumers to seek guidance from a healthcare professional before purchasing weight loss products.

"These tainted weight loss products pose a great risk to public health because they contain undeclared ingredients and, in some cases, contain prescription drugs in amounts that greatly exceed their maximum recommended dosages," said Janet Woodcock, M.D., director, Center for Drug Evaluation and Research, FDA. "Consumers have no way of knowing that these products contain powerful drugs that could cause serious health consequences. Therefore FDA is taking this action to protect the health of the American public."

The FDA has inspected a number of companies associated with the sale of these illegal products, and is currently seeking product recalls. Based on the FDA's inspections and the companies' inadequate responses to recall requests, the FDA may take additional enforcement steps, such as issuing warning letters or initiating seizures, injunctions, or criminal charges.

The health risks posed by these products can be serious; for example, sibutramine, which was found in many of the products, can cause high blood pressure, seizures, tachycardia (rapid heart beat), palpitations, heart attack or stroke. This drug can also interact with other medications that patients may be taking and increase their risk of adverse drug events. The safety of sibutramine has also not been established in pregnant and lactating women, or in children younger than 16 years of age.

Rimonabant, another ingredient found in these products, was evaluated, but not approved by the FDA for marketing in the United States. The drug, which is approved in Europe, has been associated with increased risk of depression and suicidal thoughts and has been linked to five deaths and 720 adverse reactions in Europe over the last two years.

Health care professionals and consumers should report serious adverse events (side effects) or product quality problems to the FDA's MedWatch Adverse Event Reporting program either online, by regular mail, fax or phone.

- Online: [www.fda.gov/MedWatch/report.htm](http://www.fda.gov/MedWatch/report.htm)
- Regular Mail: use postage-paid FDA form 3500 available at: [www.fda.gov/MedWatch/getforms.htm](http://www.fda.gov/MedWatch/getforms.htm) and mail to MedWatch, 5600 Fishers Lane, Rockville, MD 20852-9787
- Fax: (800) FDA-0178
- Phone: (800) FDA-1088

Information for consumers can be found at:  
[http://www.fda.gov/cder/consumerinfo/weight\\_loss\\_products.htm](http://www.fda.gov/cder/consumerinfo/weight_loss_products.htm)

To learn more about FDA's initiative against unapproved drugs read FDA's Compliance Policy Guide here:  
<http://www.fda.gov/cder/Guidance/6911fml.htm>.

For drug safety information, read: FDA's Drug Safety Initiative

#

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## Drugs

### Public Notification: "1 Day Diet" Contains Hidden Drug Ingredient

[11-21-2013] The Food and Drug Administration (FDA) is advising consumers not to purchase or use "1 Day Diet," a product promoted and sold for weight loss on various websites and possibly in some retail stores.

FDA laboratory analysis confirmed that "1 Day Diet" contains sibutramine. Sibutramine is a controlled substance that was removed from the market in October 2010 for safety reasons. The product poses a threat to consumers because sibutramine is known to substantially increase blood pressure and/or pulse rate in some patients and may present a significant risk for patients with a history of coronary artery disease, congestive heart failure, arrhythmias, or stroke. This product may also interact, in life threatening ways, with other medications a consumer may be taking.

Consumers should stop using this product immediately and throw it away. Consumers who have experienced any negative side effects should consult a health care professional as soon as possible.

Healthcare professionals and patients are encouraged to report adverse events or side effects related to the use of these products to the FDA's MedWatch Safety Information and Adverse Event Reporting Program:

- Complete and submit the report Online: [www.fda.gov/MedWatch/report.htm](http://www.fda.gov/MedWatch/report.htm)<sup>1</sup>
- Download form<sup>2</sup> or call 1-800-332-1088 to request a reporting form, then complete and return to the address on the pre-addressed form, or submit by fax to 1-800-FDA-0178

Note: This notification is to inform the public of a growing trend of dietary supplements or conventional foods with hidden drugs and chemicals. These products are typically promoted for sexual enhancement, weight loss, and body building, and are often represented as being "all natural." FDA is unable to test and identify all products marketed as dietary supplements on the market that have potentially harmful hidden ingredients. Consumers should exercise caution before purchasing any product in the above categories.

Please refer to the links below for more information:

- Tainted Weight Loss Product<sup>3</sup>
- Subscribe to the RSS feed<sup>4</sup>
- Tainted Supplement Consumer Article<sup>5</sup>

### Contact FDA

Toll Free  
(855) 543-3784, or  
(301) 796-3400  
[druginfo@fda.hhs.gov](mailto:druginfo@fda.hhs.gov)  
Human Drug Information  
Division of Drug Information (CDER)  
Office of Communications  
Feedback Form<sup>6</sup>  
10001 New Hampshire Avenue  
Hillandale Building, 4th Floor  
Silver Spring, MD 20993

Page Last Updated: 11/21/2013

Note: If you need help accessing information in different file formats, see [Instructions for Downloading Viewers and Players](#).

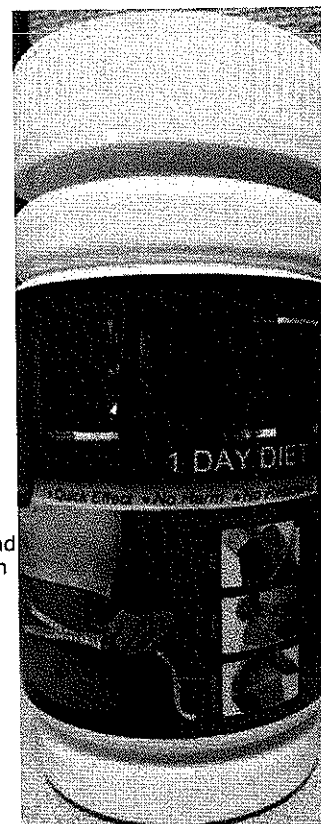
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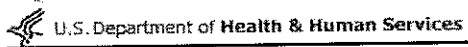
U.S. Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20993  
Ph. 1-888-INFO-FDA (1-888-463-6332)  
Email FDA



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International Programs News & Events Training and Continuing Education Inspections/Compliance State & Local Officials  
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**Links on this page:**

1. <http://www.fda.gov/MedWatch/report.htm>
2. <http://www.fda.gov/Safety/MedWatch/HowToReport/DownloadForms/default.htm>
3. <http://www.fda.gov/Drugs/ResourcesForYou/Consumers/BuyingUsingMedicineSafely/MedicationHealthFraud/ucm234592.htm>
4. <http://www.fda.gov/AboutFDA/ContactFDA/StayInformed/RSSFeeds/TDS/rss.xml>
5. <http://www.fda.gov/downloads/ForConsumers/ConsumerUpdates/UCM236998.pdf>
6. <http://www.accessdata.fda.gov/scripts/email/cder/comment.cfm>